Journal of the Senate

Number 18 **Tuesday, April 23, 1991**

CALL TO ORDER

The Senate was called to order by the President at 9:30 a.m. A quorum present—37:

Madam President	Diaz-Balart	Kirkpatrick	Thomas
Beard	Dudley	Kiser	Thurman
Brown	Forman	Kurth	Walker
Bruner	Gardner	Langley	Weinstein
Casas	Girardeau	Malchon	Weinstock
Childers	Grant	McKay	Wexler
Crenshaw	Grizzle	Meek	Yancey
Crotty	Jenne	Myers	
Dantzler	Jennings	Scott	
Davis	Johnson	Souto	

Excused: Senator Bankhead

PRAYER

The following prayer was offered by the Rev. Joe S. Lay, Jr., Pastor, Navarre United Methodist Church, Navarre:

Almighty God, we pause this morning to recognize and thank you for your presence here. We are created in your image and it is our desire to represent you in all that we do. We look to you for guidance throughout this day.

Be with the members of this body as they seek to fulfill the responsibilities given them. May they be challenged to give themselves to the tasks before them, always working for the greater good of all. Help them work together in cooperation, being sensitive to their constituents, but making uncompromising decisions that *hold true* to the principles they must exemplify.

We remember those from our state and our entire nation who continue to serve us militarily in the Persian Gulf. Watch over them this day. May they be returned safely home soon.

Finally, we ask that you enable each person here to accomplish the goals set before them. Give them your courage, strength, and wisdom to perform to the very best of their abilities. May they feel a sense of accomplishment when their work is done. May they, above all, please you. I pray in your name. Amen.

CONSIDERATION OF RESOLUTION

On motion by Senator Kirkpatrick, by two-thirds vote **SR 1950** was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Kirkpatrick—

SR 1950—A resolution recognizing Darrell Gwynn for his contributions to the sport of drag racing and commending him for his accomplishments in community service.

WHEREAS, Darrell Gwynn is a 29-year-old resident of Miami, and

WHEREAS, Darrell Gwynn was the winner of the 1990 Gatornationals drag racing meet in Gainesville, and

WHEREAS, he has achieved 27 career victories in his first 5 years of racing, and

WHEREAS, he set a world record time of 4.909 seconds in the quarter mile during qualifying for the Supernationals drag racing meet in Houston, Texas, in 1990, and

WHEREAS, on April 15, 1990, Darrell Gwynn crashed during a practice run at the Santa Pod Raceway north of London, England, and, as a result of that accident, lost his left arm and became paralyzed, and

WHEREAS, notwithstanding his accident, he has remained active in the sport of drag racing, being named to Car Craft Magazine's All-Star Team for 1990, and

WHEREAS, Darrell Gwynn remains active in community involvement, working with Project D.A.R.E. in Miami and with the Miami Project to Cure Paralysis, and

WHEREAS, Darrell Gwynn's attitude and strength have been an inspiration to race fans and others, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That the Senate does commend Darrell Gwynn for his noteworthy accomplishments in the sport of drag racing, for his contributions to the community, and for his inspirational courage in the face of adversity.

BE IT FURTHER RESOLVED that a copy of this resolution, with the seal of the Senate affixed, be presented to Darrell Gwynn as a tangible token of the respect of the Florida Senate.

—was taken up out of order by unanimous consent, read the second time in full and adopted.

Senator Kirkpatrick introduced Darrell Gwynn; his father, Jerry Gwynn; and Lisa Hurst, his fiance, who were seated in the chamber.

MATTERS ON RECONSIDERATION

The motion by Senator Beard that the Senate reconsider the vote by which—

CS for CS for SB 1264—A bill to be entitled An act relating to saltwater fisheries; creating s. 370.1535, F.S.; providing for the regulation of dead shrimp harvesting in Tampa Bay; requiring a permit from the Department of Natural Resources for dead shrimp production; specifying criteria for a permit; requiring a permit fee; specifying the deposit of fees; limiting the number of permits; prohibiting transfer of permits; requiring production of permits; requiring compliance with certain rules of the Marine Fisheries Commission; providing a definition; providing an effective date.

—passed April 19 was taken up and the motion was adopted.

On motion by Senator Beard, by two-thirds vote the Senate reconsidered the vote by which **CS for CS for SB 1264** was read the third time.

On motions by Senator Beard, by two-thirds vote—

CS for HB 1339—A bill to be entitled An act relating to saltwater fisheries; creating s. 370.1535, F.S.; providing for the regulation of shrimp fishing in Tampa Bay; providing for a permit; providing a fee; providing for application; providing a definition; providing effective dates.

—a companion measure, was substituted for **CS for CS for SB 1264** and by two-thirds vote read the second time by title. On motion by Senator Beard, by two-thirds vote **CS for HB 1339** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32 Nays—None

SPECIAL ORDER

The Senate resumed consideration of—

CS for SB 130—A bill to be entitled An act relating to law enforcement officers; amending s. 943.22, F.S., relating to the salary incentive program for full-time officers, to eliminate a prohibition against the making of retirement contributions to, and the receipt of retirement benefits under, the Florida Retirement System with respect to such salary incentives; stating that the provisions of this act fulfill an important state interest; providing an effective date.

—which was considered on April 17.

Senator Crenshaw moved **Amendment 1** which was adopted.

On motion by Senator Dudley, the rules were waived to allow **Amendment 2** to be considered.

Senator Dudley moved **Amendments 2** and **3** which failed.

On motion by Senator Crenshaw, by two-thirds vote **CS for SB 130** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34 Nays—2

On motions by Senator Crenshaw, by two-thirds vote **HB 157** was withdrawn from the Committees on Education, Governmental Operations and Appropriations.

On motion by Senator Crenshaw—

HB 157—A bill to be entitled An act relating to community colleges; amending s. 240.319, F.S.; revising policies relating to credit card payments for goods, services, tuition, or fees; providing an effective date.

—a companion measure, was substituted for **SB 384** and read the second time by title. On motion by Senator Crenshaw, by two-thirds vote **HB 157** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

CS for SB 1298—A bill to be entitled An act relating to The Florida School Code; amending s. 228.075, F.S.; providing for dates by which local, regional, and state vocational education plans must be completed; providing for the Department of Education to modify, revise, and review the state plan; providing a maximum length of time that may elapse between plan revisions; deleting deadlines that have passed; amending s. 229.55, F.S.; deleting obsolete language; deleting the adjective "minimum" from references to performance standards and skills that are part of educational goals; amending s. 229.814, F.S.; revising the catchline to substitute the term "high school equivalency diploma program" for "secondary level examination program"; amending s. 230.23, F.S.; deleting the Alyce D. McPherson School from the educational programs that are operated by the department directly or through contracts; deleting the school boards' discretionary power to separate the sexes in the district schools; amending s. 232.245, F.S.; deleting the adjective "minimum" from a reference to performance standards for pupil progression approved by the State Board of Education; deleting a deadline date that has passed; amending s. 233.0575, F.S.; deleting a provision that allows school boards and developmental research schools to seek certain state financial assistance related to mathematics/science mentor teachers; amending s. 234.01, F.S.; allowing school boards to provide transportation for certain adult vocational programs; amending s. 234.051, F.S.; amending a cross-reference; amending s. 236.081, F.S.; amending the sparsity factor; exempting dropout prevention from the definition of contiguous periods to be counted; revising the procedures for calculating the extended day supplement; amending s. 236.088, F.S.; deleting obsolete language; revising a cross-reference; amending s. 237.091, F.S.; providing that the school board determine the millage levy pursuant to s. 200.065, F.S.; amending s. 237.34, F.S.; amending cross-references; repealing s. 229.055, F.S., relating to the State Board of Education's reviewing educational reports to determine costs and benefits; repealing s. 229.552, F.S., relating to the creation of the Florida Center for Educational Statistics; repealing s. 229.8371, F.S., relating to establishing the Center for Middle Grades Education; repealing s. 230.222, F.S., relating to prohibiting the playing of "Dixie"; repealing s. 231.031, F.S., relating to setting a maximum age for employment of instructional personnel; repealing s. 231.5335, F.S., the R. B. Stewart Career Achievement Program Act of 1986; repealing s. 231.5336, F.S., relating to creating the Professional Teacher Career Development Council; repealing s. 231.534, F.S., relating to developing and revising subject area examinations, procedures, and qualifying scores to implement s. 231.533, F.S., which was previously repealed; repealing s. 231.612, F.S., relating to school-focused program improvement; repealing s. 231.6125, F.S., relating to professional development plans; repealing s. 231.615, F.S., relating to establishing a Visiting School Scholars Program; repealing s. 232.302, F.S., relating to the Florida Center for Dropout Prevention; repealing s. 233.055, F.S., the Florida Remedial Reading Education Act of 1971; repealing s. 233.505, F.S., relating to approved lists of art or craft materials; amending s. 233.0663, F.S.; designating grade level at which D.A.R.E. program is taught; providing exceptions; requiring annual program evaluations; amending s. 233.0664, F.S.; adding the Governor or his designated appointee to the D.A.R.E. Board of Directors; amending s. 230.2316, F.S., relating to grade levels, program models, and staff requirements for dropout prevention programs; amending s. 236.1223, F.S.; authorizing participation of 9th grade students in the Writing Skills Program under certain conditions; providing an effective date.

—was read the second time by title. On motion by Senator Johnson, by two-thirds vote **CS for SB 1298** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

SB 1726—A bill to be entitled An act relating to student financial aid; amending s. 240.4021, F.S.; revising eligibility requirements for Vocational Gold Seal Endorsement Scholarships; extending the time by which institutions must certify student eligibility status to the Department of Education; amending s. 240.4022, F.S.; revising eligibility requirements for the Vocational Achievement Program; amending s. 240.4068, F.S.; revising the formula for calculating the number of "Chappie" James Most Promising Teacher Scholarship Loans; amending s. 240.409, F.S.; limiting eligibility for Florida Public Student Assistance Grants to degree-seeking students; prescribing the amount of such grants; extending the time by which institutions must certify student eligibility status to the department; amending s. 240.4095, F.S.; limiting eligibility for Florida Private Student Assistance Grants to degree-seeking students; prescribing the amount of such grants; extending the time by which institutions must certify student eligibility to the department; providing that the department's audit is in lieu of the required biennial report; amending s. 240.4097, F.S.; limiting eligibility for Florida Postsecondary Student Assistance Grants to degree-seeking students; prescribing the amount of such grants; extending the time by which institutions must certify student eligibility to the department; providing that the department's audit is in lieu of the required biennial report; providing an effective date.

—was read the second time by title. On motion by Senator Meek, by two-thirds vote **SB 1726** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

CS for SB 1352—A bill to be entitled An act relating to medical practice; amending ss. 458.317, 459.0075, F.S.; exempting physicians and osteopathic physicians applying for limited licenses from application and licensure fees under certain circumstances; providing an effective date.

—was read the second time by title.

One amendment was adopted to **CS for SB 1352** to conform the bill to **CS for HB 891**.

Pending further consideration of **CS for SB 1352** as amended, on motions by Senator Malchon, by two-thirds vote **CS for HB 891** was withdrawn from the Committees on Professional Regulation; and Finance, Taxation and Claims.

On motion by Senator Malchon—

CS for HB 891—A bill to be entitled An act relating to medical practice; amending ss. 458.317 and 459.0075, F.S.; exempting physicians and osteopathic physicians applying for limited licenses from application and licensure fees under certain circumstances; providing an effective date.

—a companion measure, was substituted for **CS for SB 1352** and read the second time by title. On motion by Senator Malchon, by two-thirds vote **CS for HB 891** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motions by Senator Kiser, by two-thirds vote **CS for HB 1191** was withdrawn from the Committees on Commerce; and Finance, Taxation and Claims.

On motion by Senator Kiser—

CS for HB 1191—A bill to be entitled An act relating to insurance; amending s. 651.011, F.S.; providing definitions; creating s. 651.018, F.S.; specifying authority of the Department of Insurance to place a continuing care retirement facility in administrative supervision; creating s. 651.019, F.S.; requiring continuing care providers to provide certain notice of new financing, additional financing, or refinancing to the department; requir-

ing providers to furnish information requested by the department; amending s. 651.023, F.S.; requiring certain proof prior to release of moneys from escrow; creating s. 651.0261, F.S.; authorizing the department to require providers to submit quarterly financial statements; creating s. 651.028, F.S.; authorizing the department to waive regulatory requirements with respect to an accredited provider; amending s. 651.035, F.S.; providing that a provider may employ a debt service reserve to fulfill certain escrow requirements; amending s. 651.055, F.S.; providing that continuing care contracts are exempt from s. 517.301, F.S.; creating s. 651.083, F.S.; creating a continuing care residents' bill of rights; requiring providers to furnish copies of the bill of rights to residents; providing that violations of such rights constitutes grounds for disciplinary action by the department; providing immunity from civil or criminal liability for persons who file reports or complaints of suspected violations of residents' rights or services or conditions in a facility; providing exceptions; amending s. 651.091, F.S.; requiring providers to furnish additional information to residents; amending s. 651.106, F.S.; specifying grounds for disciplinary action by the department; providing that failure to meet disclosure requirements constitutes grounds for disciplinary action; amending s. 651.114, F.S.; authorizing the department to seek the assistance of the Continuing Care Advisory Council in formulating plans to bring certain providers into compliance; authorizing the department to require a facility or provider to prepare a corrective action plan in certain circumstances; authorizing the department to impose a corrective action plan; creating s. 651.1151, F.S.; specifying powers of the department with respect to administrative, vendor, and management contracts of providers; creating s. 651.119. F.S.; providing that the department is for specified purposes a creditor of a facility that closes due to liquidation or pending liquidation; providing for assistance to residents; providing for voluntary contributions from the reserves of providers; providing for reimbursement; providing for reduction of minimum liquid reserve requirements; providing circumstances for assessments against the reserves of providers; specifying duties of the advisory council; providing for future repeal; amending s. 651.121, F.S.; expanding membership of the advisory council; authorizing the advisory council to require providers to submit certain information; providing for future review and repeal; providing an effective date.

—a companion measure, was substituted for **CS for SB 1446** and read the second time by title. On motion by Senator Kiser, by two-thirds vote **CS for HB 1191** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

The Senate resumed consideration of—

CS for SB 1662—A bill to be entitled An act relating to children; amending s. 39.01, F.S.; providing definitions; amending s. 39.41, F.S.; providing additional disposition options to the court in dependency proceedings; amending s. 39.453, F.S.; providing deadlines for certain judicial reviews; amending s. 409.165, F.S.; providing legislative intent for the expenditure of certain funds; providing for certain funds to be used to meet the needs of dependent children; providing an effective date.

—which had been considered April 19. Pending **Amendment 1** was withdrawn.

On motion by Senator Weinstock, by two-thirds vote **CS for SB 1662** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

HB 2069—A bill to be entitled An act relating to state-administered retirement systems; amending s. 121.021, F.S.; modifying definitions of "compensation," "average final compensation," and "beneficiary"; providing a definition for "plan year"; amending s. 121.052, F.S.; providing retirement membership options to elected state and county officers upon dual employment; deleting obsolete language on contribution payments; amending s. 121.053, F.S.; allowing retirees returning to employment to combine employment in different classes toward a second retirement benefit; exempting retired judges assigned to temporary duty; providing for additional credit toward the maximum health insurance subsidy; amending ss. 121.091, 122.09, and 238.07, F.S.; revising disability provisions to comply with federal law; amending s. 121.122, F.S., relating to renewed membership in the Florida Retirement System; providing for modified service contributions; providing for additional credit toward the maximum health insurance subsidy; amending ss. 121.125, 122.03, and 238.06, F.S.; limiting workers' compensation credit for retirement; amending s. 121.35, F.S.; providing membership options for the State University System Optional Retirement Program; amending ss. 121.40, 122.16, and 321.203, F.S.; providing for payment of full retirement contributions for certain retired persons returning to employment, effective July 1, 1991; amending s. 238.181, F.S.; modifying reemployment-after-retirement provisions under the Teachers' Retirement System to conform to similar provisions under the Florida Retirement System; providing an effective date.

—was read the second time by title.

The Committee on Personnel, Retirement and Collective Bargaining recommended **Amendments 1, 2, 3** and **4** which were moved by Senator Souto and adopted.

Senator Gardner moved **Amendments 5** and **6** which were adopted.

Senators Grizzle and Gardner offered **Amendments 7, 8** and **9** which were moved by Senator Grizzle and adopted.

Senator Myers moved **Amendments 10** and **11** which were adopted.

On motion by Senator Souto, by two-thirds vote **HB 2069** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33 Nays—None

Consideration of **CS for HB 1587** was deferred.

CS for CS for SB 2084—A bill to be entitled An act relating to developments of regional impact; amending s. 380.06, F.S.; exempting from provisions governing developments of regional impact increases in the seating or parking capacity of certain sports facilities; requiring a transportation management plan; providing an effective date.

—was read the second time by title.

Two amendments were adopted to **CS for CS for SB 2084** to conform the bill to **CS for HB 2229**.

Pending further consideration of **CS for CS for SB 2084** as amended, on motions by Senator Crotty, by two-thirds vote **CS for HB 2229** was withdrawn from the Committees on Natural Resources and Conservation; and Community Affairs.

On motion by Senator Crotty—

CS for HB 2229—A bill to be entitled An act relating to developments of regional impact; amending s. 380.06, F.S.; exempting from provisions governing developments of regional impact certain increases in the seating capacity of certain sports facilities; providing for development and criteria of a traffic management plan by the appropriate local government; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 2084** and read the second time by title.

Senator Forman moved **Amendment 1** which failed. The vote was:

Yeas—17 Nays—18

On motion by Senator Crotty, by two-thirds vote **CS for HB 2229** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30 Nays—6

Consideration of **CS for SB 156** was deferred.

On motion by Senator Grant, by two-thirds vote **CS for HB 625** was withdrawn from the Committee on Corrections, Probation and Parole.

On motion by Senator Grant, by unanimous consent—

CS for HB 625—A bill to be entitled An act relating to state prisoners; creating s. 947.147, F.S.; authorizing the Control Release Authority to order restitution as a condition of release if imposed by the courts pursuant to s. 775.089, F.S.; providing an effective date.

—was taken up out of order and read the second time by title. On motion by Senator Grant, by two-thirds vote **CS for HB 625** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

CS for SB 268—A bill to be entitled An act relating to nursing homes and related health care facilities; creating the position of Legal Advocate for Nursing Home and Long-Term Care Facility Residents under the Pepper Commission on Aging; providing for authority of such advocate; providing an effective date.

—was read the second time by title.

Senator Malchon moved **Amendment 1** which was adopted.

On motion by Senator Malchon, by two-thirds vote **CS for SB 268** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35 Nays—None

SB 134—A bill to be entitled An act relating to campaigns; creating s. 106.40, F.S.; requiring filing officers to give candidates, political committees, and committees of continuous existence certain forms; providing for subscription to voluntary fair campaign practices; prescribing the Code of Voluntary Fair Campaign Practices; requiring forms; providing for public inspection; providing for certain statements on campaign literature or advertising; providing an effective date.

—was read the second time by title. On motion by Senator Brown, by two-thirds vote **SB 134** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 206—A bill to be entitled An act relating to postsecondary education; amending s. 230.645, F.S.; exempting homeless students from requirements for the payment of fees for postsecondary instruction; providing an effective date.

—was read the second time by title.

Senator Meek moved **Amendments 1** and **2** which were adopted.

On motion by Senator Meek, by two-thirds vote **SB 206** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—29 Nays—6

SB 1708—A bill to be entitled An act relating to community redevelopment areas; amending s. 163.380, F.S.; providing that community redevelopment real property may be sold at a value determined to be in the public interest; providing guidelines for determining if the value is in the public interest; providing an effective date.

—was read the second time by title. On motion by Senator Wexler, by two-thirds vote **SB 1708** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

CS for SB 156—A bill to be entitled An act relating to the tax on sales, use, rentals, admissions, and other transactions; reenacting s. 212.054, F.S.; amending s. 212.055, F.S.; authorizing certain counties to impose, pursuant to ordinance approved by an extraordinary majority of the governing body or conditioned on a referendum, a surtax on that tax in order to finance health care services for certain residents who are certified as indigent or medically poor; specifying a maximum rate of surtax; providing for computation of the surtax; providing for collection and distribution of the surtax; providing for establishment of indigent care trust funds; providing for investment of moneys in the trust funds; providing for use of the proceeds; providing an effective date.

—was read the second time by title.

Senator Davis moved **Amendments 1, 2** and **3** which were adopted.

Senator Diaz-Balart moved **Amendments 4, 5, 6** and **7** which were adopted.

On motion by Senator Davis, by two-thirds vote **CS for SB 156** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—28 Nays—2

SB 1716—A bill to be entitled An act relating to the dispositions of traffic infractions; amending s. 318.32, F.S.; revising the jurisdiction of magistrates to hear certain civil traffic infraction cases; providing for assignment of a case to a county court judge upon defendant's request; amending s. 318.37, F.S.; increasing the maximum pay of magistrates; providing an effective date.

—was read the second time by title.

Senator Weinstein moved **Amendments 1** and **2** which were adopted.

On motion by Senator Weinstein, by two-thirds vote **SB 1716** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34 Nays—None

CS for SB 1996—A bill to be entitled An act relating to fire prevention and control; amending s. 633.021, F.S.; revising definitions; amending s. 633.025, F.S.; revising language with respect to minimum firesafety standards to provide reference to certain subsequently adopted editions of firesafety codes; amending s. 633.061, F.S.; providing that certain fees collected for licenses or permits with respect to fire extinguishers and preengineered systems shall be deposited into the Insurance Commissioner's Regulatory Trust Fund; amending s. 633.065, F.S.; revising language with respect to fire suppression equipment; amending s. 633.085, F.S.; deleting the requirement that the State Fire Marshal conduct performance tests on all components of electronic fire warning and smoke detection systems; amending s. 633.30, F.S.; redefining the term "firefighter"; amending s. 633.34, F.S.; requiring persons who desire to be initially employed as a firefighter to have a medical examination; amending s. 633.382, F.S.; revising the definition of the term "firefighter"; revising language with respect to qualifications for supplemental compensation; amending s. 633.539, F.S.; revising language with respect to fire protection systems; amending s. 633.701, F.S.; revising language with respect to fire alarm system equipment; providing an effective date.

—was read the second time by title. On motion by Senator Thurman, by two-thirds vote **CS for SB 1996** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34 Nays—None

Consideration of **CS for SB 2182** was deferred.

On motions by Senator Malchon, by two-thirds vote **CS for HB 1039** was withdrawn from the Committees on Health and Rehabilitative Services; Judiciary; and Appropriations.

On motion by Senator Malchon—

CS for HB 1039—A bill to be entitled An act relating to health care; creating s. 745.40, F.S.; designating ss. 745.40-745.53, F.S., the Health Care Surrogate Act of Florida; amending s. 745.41, F.S.; defining terms for purposes of ss. 745.40-745.53, F.S.; amending s. 745.42, F.S.; revising provisions relating to the designation of a health care surrogate; authorizing the designation of certain employees of the treating health care provider or health care facility as a health care surrogate, if the employee is related to the principal; amending s. 745.44, F.S.; revising provisions relating to persons who may serve as a health care surrogate of a patient who has not designated a surrogate and who does not have the capacity to make medical decisions for himself; amending s. 745.45, F.S.; clarifying responsibilities of a health care surrogate; amending s. 745.46, F.S.; clarifying the type of experimental treatments or therapies a health care surrogate may consent to; authorizing a health care surrogate to consent to withholding or withdrawing life-prolonging procedures from the principal, if expressly authorized to do so by the principal; amending s. 745.47, F.S.; clarifying a condition under which a surrogate's decision may be reviewed by a court; authorizing a court order to have a surrogate's decision honored; amending s. 745.48, F.S.; providing that the designation of a health care surrogate is not revoked if the principal regains the capacity to make health care decisions or provide informed consent; amending s. 745.50, F.S.; revising a provision that prohibits health care providers and facilities to require such a designation; amending s. 745.51, F.S.; revising a provision that restricts the liability of a health care surrogate; creating s. 745.53, F.S.; providing for the preservation of existing legal rights; amending s. 765.01, F.S.; clarifying a short title; amending s. 765.02, F.S.; clarifying legislative intent with respect to the decision of a person to forego life-prolonging medical procedures; amending s. 765.03, F.S.; defining terms for purposes of ss. 765.01-765.17, F.S., relating to life-prolonging procedures; amending s. 765.04, F.S.; deleting a reference to

oral declarations; providing a standard of proof for oral conditions or limitations placed on a declaration; amending s. 765.05, F.S.; specifying a suggested written form to make such a declaration; amending s. 765.07, F.S.; revising procedure for designating a person to decide whether to withhold or withdraw life-prolonging procedures from a terminally ill adult; deleting a requirement for witnesses to certain treatment consultations; amending s. 765.09, F.S.; revising language with respect to the transfer of a qualified patient; amending s. 765.10, F.S.; providing emergency medical services personnel with immunity from liability, under certain circumstances; amending ss. 765.11, 765.12, 765.14, and 765.15, F.S.; correcting cross references; amending s. 765.13, F.S.; providing penalties for giving specified health care providers certain oral instructions that are contrary to the patient's expressed decisions; repealing s. 745.49, F.S., relating to the period of time a designation is valid; repealing s. 765.075, F.S., relating to withdrawing or withholding of food and water; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 2136** and read the second time by title.

Senator Malchon moved **Amendment 1**.

Senators Dudley, Johnson and Langley offered **Amendment 1A** which was moved by Senator Dudley.

Senator Dudley moved **Substitute Amendment 1B** which was adopted.

Amendment 1 as amended was adopted.

Senator Malchon moved **Amendment 2** which was adopted.

On motion by Senator Malchon, by two-thirds vote **CS for HB 1039** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

The Senate resumed consideration of—

CS for SB 2058—A bill to be entitled An act relating to the Motor Fuel Marketing Practices Act; amending s. 526.303, F.S.; revising and providing definitions; amending s. 526.304, F.S.; providing that it is an unlawful predatory practice for a refiner to sell motor fuel at a retail outlet at a price below that the refiner charges to a wholesaler or dealer under contract for like fuel within the same geographic market; amending s. 526.305, F.S.; providing that it is an unlawful discriminatory practice for a refiner to sell motor fuel to a wholesaler at a price higher than it sells to a dealer in competition with any retail outlet supplied by such wholesaler, where the effect is to injure competition; exempting isolated, inadvertent incidents; amending s. 526.308, F.S.; revising provisions that specify unlawful rebates; including rent subsidies and special allowances as forms of unlawful rebates; qualifying an exemption; amending s. 526.311, F.S.; increasing civil penalties for violation of the act; authorizing the Department of Agriculture and Consumer Services to request the Department of Legal Affairs to issue and serve subpoenas to compel the production of documents and records relevant to investigations of violations; providing exemptions from public records requirements for subpoenaed documents and records and for trade secrets and proprietary confidential business information; providing for future review and repeal; revising disposition of funds collected in civil actions by the Department of Legal Affairs; amending s. 526.312, F.S.; specifying grounds for the granting of preliminary injunctive relief with respect to private actions and actions by the Department of Legal Affairs to enforce the act; providing an effective date.

—which had been considered April 22. Pending **Amendment 3** was withdrawn.

Senators Dudley and Thurman offered **Amendment 4** which was moved by Senator Thurman and adopted.

Senator Thurman moved **Amendment 5** which was adopted.

On motion by Senator Thurman, by two-thirds vote **CS for SB 2058** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36 Nays—1

CS for HB 1587—A bill to be entitled An act relating to the state lottery; amending s. 24.120, F.S.; eliminating the lottery working capital reserve and authorizing the Department of the Lottery to borrow from the Working Capital Fund; providing that certain payments are not lump-sum salary bonuses; amending s. 24.121, F.S.; revising the percentage of lottery revenue deposited in the Educational Enhancement Trust Fund; providing an effective date.

—was read the second time by title.

Senator Crenshaw moved **Amendments 1** and **2** which were adopted.

On motion by Senator Crenshaw, by two-thirds vote **CS for HB 1587** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

On motions by Senator Meek, by two-thirds vote—

CS for HB 1971—A bill to be entitled An act relating to community development; amending s. 290.007, F.S.; providing additional state and local incentives; authorizing certain loans or grants to certain businesses in enterprise zones; creating s. 290.0135, F.S.; providing legislative intent; requiring certain local governments to review ordinances for certain adverse impacts upon enterprise zones; authorizing certain local governments to waive, amend, or modify certain ordinances to reduce negative impacts within enterprise zones; providing for future repeal; amending s. 290.014; providing an additional reporting requirement; amending s. 290.0301, F.S., relating to the short title for the Community Development Corporation Support and Assistance Program Act; amending s. 290.0311, F.S.; revising and providing additional legislative findings; amending s. 290.032, F.S.; clarifying the purpose of the act; amending s. 290.033, F.S.; revising and providing additional definitions; amending s. 290.034, F.S., relating to the Community Development Support and Assistance Trust Fund; amending s. 290.035, F.S.; revising the requirements which a community development corporation must meet to be eligible for assistance; amending s. 290.036, F.S.; removing an administrative funding restriction effective July 1, 1991; revising requirements relating to administrative grants and application therefor; specifying eligible activities; providing for development of a diminishing scale of funding; authorizing multiyear grants; providing for scoring criteria; creating s. 290.0365, F.S.; authorizing the award of planning grants to certain corporations; providing selection criteria; amending s. 290.037, F.S.; revising eligible uses of loan funds; revising a loan limitation; clarifying audit requirements; providing additional evaluation criteria; clarifying provisions relating to term of loans; amending s. 290.038, F.S.; deleting reporting requirements; creating s. 290.039, F.S.; requiring corporations to report to the Department of Community Affairs and providing for an annual report to the Legislature; creating s. 290.0395, F.S.; providing for evaluation of the program by the Auditor General; providing for future repeal of the act; amending ss. 288.063 and 290.007, F.S., to conform; amending s. 290.0065, F.S.; authorizing the department to approve changes in enterprise zone boundaries; providing an effective date for boundary changes; providing effective dates.

—a companion measure, was substituted for **CS for SB 2182** and by two-thirds vote read the second time by title. On motion by Senator Meek, by two-thirds vote **CS for HB 1971** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

MOTION

On motion by Senator Thomas, the rules were waived and time of recess was extended until completion of the special order calendar.

SB 2458—A bill to be entitled An act relating to the Englewood Water District in Charlotte County and Sarasota County; amending s. 1, ch. 59-931, Laws of Florida, as amended, and repealing s. 1-A, ch. 59-931, Laws of Florida, as added by s. 2, ch. 69-710, Laws of Florida, s. 1-B, ch. 59-931, Laws of Florida, as added by s. 1, ch. 86-420, Laws of Florida, and s. 1-C, ch. 59-931, Laws of Florida, as added by s. 1, ch. 90-408, Laws of Florida; restating the boundaries of the district; amending s. 3, ch. 59-931, Laws of Florida, as amended, relating to the board of supervisors of the district; deleting obsolete provisions; providing for the conduct of elections for supervisors; revising provisions pertaining to the officers of the board; authorizing the board to delegate the authority to sign contracts to the administrator; making grammatical corrections; amending s. 4(d), (e), (n), ch. 59-931, Laws of Florida; reducing the district's power to

assess ad valorem taxes; eliminating the district's power to assess ad valorem taxes, as of January 1, 1993, unless the voters continue such authority by referendum; eliminating the district's authority to regulate private utilities; revising other powers of the district; amending s. 7, ch. 59-931, Laws of Florida; prescribing additional procedures and requirements regarding the district's water and sewer rate-setting authority; providing for a special referendum on certain issues; providing an effective date.

—was read the second time by title. On motion by Senator Johnson, by two-thirds vote **SB 2458** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

SB 2460—A bill to be entitled An act relating to the Sarasota-Manatee Airport Authority; revising, restating, and consolidating laws pertaining to the authority; omitting provisions that have had their effect and other obsolete provisions; omitting redundant provisions; revising cross-references; deleting the requirement that the treasurer of the authority be responsible directly to the authority; providing for the confidentiality of medical and dental insurance records and medical and dental insurance claims records of employees and former employees of the authority and their dependents; exempting such records from specified public record requirements; providing saving clauses; providing for severability; repealing ch. 31263, Laws of Florida, 1955, and chs. 57-1837, 57-1846, 59-1840, 59-1842, 65-2229, 65-2230, 67-2053, 69-1594, 71-918, 71-919, 77-651, 78-620, 86-411, 87-525, 90-407, and 90-414, Laws of Florida, relating to the authority; providing an effective date.

—was read the second time by title. On motion by Senator Johnson, by two-thirds vote **SB 2460** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32 Nays—None

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Tuesday, April 23, 1991: CS for SB 130, SB 384, CS for SB 1298, SB 1726, CS for SB 1352, CS for SB 1446, CS for SB 1662, HB 2069, CS for HB 1587, CS for CS for SB 2084, CS for SB 156, CS for SB 268, SB 134, SB 206, SB 1708, SB 1716, CS for SB 1996, CS for SB 2182, CS for CS for SB 2136

Respectfully submitted,
Pat Thomas, Chairman

The Committee on Finance, Taxation and Claims recommends committee substitutes for the following: SB 1422, CS for SB 1796, CS for SB 2040

The bills with committee substitutes attached were referred to the Committee on Appropriations under the original reference.

The Committee on Finance, Taxation and Claims recommends committee substitutes for the following: CS for SB 1408, Senate Bills 434 and 532

The bills with committee substitutes attached were placed on the calendar.

FIRST READING OF COMMITTEE SUBSTITUTES

By the Committee on Finance, Taxation and Claims; and Senators Gardner, Kiser and Grant—

CS for SB's 434 and 532—A bill to be entitled An act relating to taxation; creating s. 213.015, F.S.; providing requirements with respect to the rights, safeguards, and protections afforded taxpayers during tax assessment, collection, and enforcement processes; creating s. 213.018, F.S.; providing for a taxpayer problem resolution program; providing for a taxpayers' rights advocate with authority to issue taxpayer assistance orders; amending s. 213.21, F.S.; providing a taxpayer's right to have representation and record informal conferences; creating s. 213.025, F.S.; requiring the Department of Revenue to conduct its audits, inspections, and interviews at reasonable times and places, with exceptions; amending s. 213.34, F.S.; directing the department to offset overpayments against deficiencies; creating s. 213.731, F.S.; requiring notice before collection action is taken; providing a taxpayer's right to protest and seek a review; creating s. 213.732, F.S.; providing procedural requirements, taxpayers' rights, and venue for certain legal actions with respect to jeopardy findings and assessments; creating s. 213.733, F.S.; providing for cancellation, amendment, or modification of warrants; amending ss. 199.262, 206.075, 211.125, 211.33, 212.14, 212.15, 214.12, 214.45, F.S.; specifying procedures applicable if jeopardy to the revenue exists and is asserted in or with an assessment; repealing s. 214.12(4), F.S., relating to taxpayer protest regarding a jeopardy assessment lien; amending s. 20.21, F.S.; creating within the department the position of taxpayers' rights advocate and providing his responsibilities; amending s. 72.011, F.S.; prohibiting certain legal actions when an action has been initiated under s. 120.575, F.S.; requiring the department to commence an audit within a specified period of time after it issues a notice of intent to conduct an audit; amending s. 120.575, F.S.; providing procedures and requirements applicable when a taxpayer contests specified taxes, interest, or penalties; providing requirements relating to petitions, hearings, and orders; providing venue; providing powers of hearing officers and panels; providing for liens; providing for recovery of legal costs, including attorney's fees; amending s. 120.65, F.S.; requiring that hearing officers be administrative law judges; providing for a uniform rate of pay; requiring the Taxation and Budget Reform Commission to make certain recommendations to the Legislature; amending s. 196.175, F.S.; extending the renewable energy source exemption until 1999; providing an appropriation; providing severability; providing an effective date.

By the Committees on Finance, Taxation and Claims; Commerce; and Senators Dudley and Forman—

CS for CS for SB 1408—A bill to be entitled An act relating to community associations; amending s. 718.103, F.S.; providing definitions; amending s. 718.104, F.S.; providing additional requirements in the declaration creating a condominium; providing additional requirements in the common elements for certain condominiums; amending s. 718.110, F.S.; revising provisions with respect to the amendment of the declaration; amending s. 718.111, F.S.; revising provisions with respect to the association; amending s. 718.112, F.S.; revising provisions with respect to the bylaws; providing a fine; amending s. 718.113, F.S.; requiring each board of administration to adopt hurricane shutter specifications along certain lines; amending s. 718.114, F.S.; revising provisions with respect to the association powers; amending s. 718.115, F.S.; revising provisions with respect to common expenses and common surplus; amending s. 718.116, F.S.; revising provisions with respect to assessments; amending s. 718.120, F.S., revising provisions with respect to taxation; amending s. 718.1255, F.S.; providing for alternative dispute resolution; encouraging voluntary mediation; providing for mandatory nonbinding arbitration; providing legislative findings; amending s. 718.203, F.S.; including design professionals, architects, and engineers in a list of contractors granting warranties; amending s. 718.301, F.S.; revising provisions with respect to transfer of association control; creating s. 718.3026, F.S.; providing for written contracts for products and services; providing for bids; providing exceptions; amending s. 718.303, F.S.; providing for additional amounts to be recovered by a unit owner who prevails over the association under certain circumstances; increasing fines; amending s. 718.401, F.S.; providing a shorter term of lease with respect to certain condominiums; amending s. 718.501, F.S.; revising provisions with respect to the powers and duties of the Division of Florida Land Sales, Condominiums, and Mobile Homes; increasing fees; creating s. 718.5015, F.S.; creating an Office of Condominium Ombudsman within the division for administrative purposes; creating s. 718.5016, F.S.; providing for powers and duties of the ombudsman; creating s. 718.5017, F.S.; providing for compensation and expenses; creating s. 718.5018, F.S.; providing for the location of the ombudsman's office; creating s. 718.5019, F.S.; creating the Advisory Council on Condominiums; amending s. 718.502, F.S.; revising provisions with respect to filing prior to sale or lease; providing a fee; amending s. 718.503, F.S.; revising provisions with respect to disclosure prior to sale; amending s. 718.504, F.S.; revising provisions with respect to the prospectus or offering circular; amending s. 718.608, F.S.; requiring developers to file certain information with the division prior to delivering a notice of intended conversion; providing a fee; amending s. 718.618, F.S.; providing for additional reserve accounts; amending s. 719.106, F.S.; revising provisions with respect to bylaws of cooperatives; amending s. 721.13, F.S.; providing quorum requirements with respect to time-share condominiums or owners' associations; amending s. 721.05, F.S.; redefining the term "time-share estate"; providing for review and repeal; providing an effective date.

By the Committee on Finance, Taxation and Claims; and Senator Crotty—

CS for SB 1422—A bill to be entitled An act relating to drivers' licenses; amending s. 322.18, F.S.; providing that no person shall be issued a driver's license if the records of the Department of Highway Safety and Motor Vehicles reveal that the person has an outstanding warrant against him for passing a worthless bank check; directing state attorneys to provide the department with certain information; providing for confidentiality of certain information; providing for review and repeal; providing a fee; providing an appropriation; providing an effective date.

By the Committees on Finance, Taxation and Claims; Governmental Operations; and Senator Gardner—

CS for CS for SB 1796—A bill to be entitled An act relating to the Spaceport Florida Authority; amending s. 331.302, F.S.; providing clarification of the definition of "agency" as applied to the authority; amending s. 331.303, F.S.; defining "conduit bond" and "financing agreement"; modifying the definition of "project"; amending s. 331.305, F.S.; authorizing the authority to execute financing agreements; revising the authority's power to construct and furnish facilities; revising bond authority, including authorizing the authority to fix, collect, and set aside in a sinking fund fees, loan payments, rental payments, and other charges for the use of any project to pay the principal of and interest on the bonds; providing the authority with the right and power of eminent domain within spaceport territory; amending s. 331.309, F.S.; authorizing transfer of authority funds to and from the State Treasury; amending s. 235.196, F.S.; authorizing the authority to participate in the funding and utilization of community educational facilities; amending s. 331.331, F.S.; revising the authority's power to issue revenue bonds; amending s. 331.339, F.S.; revising requirements for the sale of bonds; creating s. 331.354, F.S.; providing tax-exempt status for authority projects, for any other property owned by the authority under the provisions of the controlling act and upon income therefrom, for bonds and upon income therefrom, and for all securities issued in connection with a project financed under the controlling act, except for any tax imposed by chapter 220; amending s. 74.011, F.S.; availing the authority of proceedings supplemental to eminent domain; providing an effective date.

By the Committees on Finance, Taxation and Claims; International Trade, Economic Development and Tourism; and Senator Kiser—

CS for CS for SB 2040—A bill to be entitled An act relating to professional sports; amending s. 212.20, F.S.; providing for the distribution of tax revenue to new professional sports franchise facilities and new spring training franchise facilities; amending s. 288.1162, F.S.; revising application procedures to qualify for distribution; providing uses of distributed funds; allowing audits by the Department of Revenue; providing for confidentiality; amending s. 288.1161, F.S., to conform; amending s. 288.1167, F.S.; providing alternative methods to meet minority business participation requirements; repealing s. 288.1163, F.S., relating to allowing a county to impose a tourist development tax for payment of debt service on bonds related to a professional sports franchise facility; repealing s. 288.1164, F.S., relating to providing for a state funding program for professional sports franchises; repealing s. 288.1165, F.S., relating to the creation of the Professional Sports/Economic Trust Fund; providing an effective date.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Grizzle, by two-thirds vote **CS for SB 1578** was withdrawn from the Committee on Community Affairs.

On motions by Senator Gardner, by two-thirds vote **SB 124, CS for SJR's 198, 698, 994, 494 and 588, CS for SB 538, Senate Bills 550** and **620, CS for CS for SB 748, CS for SB 1022, SB 1104, CS for SB 1246, CS for SB 1378, CS for SB 1582, CS for SB 1670, CS for SB 1796, CS for CS for SB 1820, SB 2146** and **CS for SB 2340** were withdrawn from the Committee on Appropriations.

On motion by Senator Thomas, by two-thirds vote **SB 1190** was also referred to the Committee on Appropriations.

On motions by Senator Thomas, by two-thirds vote **CS for CS for HB 365** was withdrawn from the Committees on Natural Resources and Conservation; Finance, Taxation and Claims; and Appropriations; and **HB 2511** was withdrawn from the Committees on Governmental Operations; and Rules and Calendar.

On motion by Senator Jenne, by two-thirds vote **CS for SB 348** was withdrawn from the Committee on Finance, Taxation and Claims.

On motions by Senator Thomas, by two-thirds vote **SB 2458** was withdrawn from the Committees on Community Affairs; and Rules and Calendar; and **SB 2460** was withdrawn from the Committee on Rules and Calendar.

MOTIONS

On motions by Senator Thomas, by two-thirds vote **Senate Bills 2458** and **2460** and **CS for SB 2058** were placed on the special order calendar.

On motion by Senator Crenshaw, the House was requested to return **CS for HB 2229**.

On motion by Senator Thomas, the rules were waived and the Special Order Subcommittee of the Committee on Rules and Calendar was granted permission to meet at 1:15 p.m. this day and 12:00 noon April 24.

On motions by Senator Girardeau, the rules were waived and the Committee on Executive Business, Ethics and Elections was granted permission to meet this day at 3:00 p.m. in lieu of 5:00 p.m. to consider the following Executive Appointments:

Governing Board, Suwannee River Water Management District

Demott, Herbert G.
Griner, Lynetta Usher
Sedmera, J. Frank, Jr.
Starnes, Earl M.

Withlacoochee River Basin Board, Southwest Florida Water Management District

McCrimmon, Steve F.

Florida Citrus Commission

Roe, Quentin James
Sorrells, Howard E.
Minton, John L.
Huff, James E. (if received)
Truitt, George W. (if received)

Parole Commission

Simmons, Kenneth W.

Board of Trustees, John and Mable Ringling Museum of Art

Dodson, Dorothy C.

Board of Pilot Commissioners

Crongeyer, Esther J.

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

APPOINTMENTS SUBJECT TO COMFIRMATION BY THE SENATE:

The Secretary of State has certified that pursuant to the provisions of Section 114.05, Florida Statutes, certificates subject to confirmation by the Senate had been prepared for the following:

Office and Appointment	*For Term Ending*
Florida Citrus Commission	
Huff, James E., Wabasso	05/31/94
Minton, John L., Vero Beach	05/31/94
Truitt, George W., Lakeland	05/31/94
Investment Advisory Council	
Pelham, Thomas G., Tallahassee	12/12/93
Governor's Mansion Commission	
Reed, Catherine S., Tallahassee	09/30/93

Referred to the Committee on Executive Business, Ethics and Elections.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

First Reading

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed CS for HB 139, CS for HB 787, HB 957, HB 961, CS for HB 1035, HB 1133, HB 1251, HB 1281, CS for HB 1363, HB 1477, HB 1479, HB 1483, HB 1553, HB 1591, HB 1595, HB 1611, HB 1627, CS for HB 1683, HB 1695, CS for HB 1883, HB 1947, HB 2021, HB 2035, CS for HB 2231, HB 2311, HB 2441, HB 2563; has passed as amended CS for HB 81, CS for HB's 343, 759, 1139 and 2073, CS for CS for HB 365, CS for CS for HB 843, HB 953, HB 1013, CS for HB 1061, HB 1099, HB 1269, HB 1321, CS for HB 1339, HB 1485, HB 1487, CS for CS for HB 1519, HB 1533, HB 1551, CS for HB 1971, HB 2281, HB 2499, HB 2599 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By the Committee on Governmental Operations and Representative Safley and others—

CS for HB 139—A bill to be entitled An act relating to resource recovery; creating the Recycling Markets Task Force; providing purpose; providing membership; providing for administration; providing for reimbursement of expenses; providing for funding; requiring a report; providing for review and repeal; providing an effective date.

—was referred to the Committee on Natural Resources and Conservation.

By the Committee on Public Schools and Representative Mortham—

CS for HB 787—A bill to be entitled An act relating to education; amending s. 232.26, F.S.; providing for the suspension of pupils charged with certain delinquent acts; specifying the length of suspensions of pupils charged with a felony or delinquent act; providing for the delivery of educational services; providing an effective date.

—was referred to the Committee on Education.

By Representative Peeples—

HB 957—A bill to be entitled An act relating to the South Trail Fire Protection and Rescue Service District, Lee County; amending s. 5(2), chapter 76-412, Laws of Florida, as amended; increasing the maximum millage rate that may be levied by the district board of commissioners; providing for a referendum; providing an effective date.

—was referred to the Committee on Rules and Calendar.

By Representatives Lewis and Clark—

HB 961—A bill to be entitled An act relating to the Yacht and Ship Brokers' Act; amending s. 326.004, F.S.; deleting the requirement that applicants for licensure must have 3 personal references; requiring the submission of fingerprints; providing for temporary licensure; providing an effective date.

—was referred to the Committee on Commerce.

By the Committee on Regulatory Reform and Representative Rayson and others—

CS for HB 1035—A bill to be entitled An act relating to electrolysis; providing a short title; providing legislative intent; providing definitions; creating the Electrolysis Council under the Board of Medicine within the Department of Professional Regulation; providing for rules, membership, terms, organization, meetings, and quorum thereof; providing regulatory powers and duties of the board; providing for the licensure of electrologists by examination and endorsement; providing for temporary permits; restricting use of certain titles and abbreviations; providing for license renewal; providing for automatic reversion to inactive status and expiration; providing continuing education requirements; providing for the adoption of rules; providing for fees; providing grounds for disciplinary action; providing administrative penalties; providing criminal penalties; providing exemptions; providing for future review and repeal; providing an effective date.

—was referred to the Committees on Professional Regulation; Finance, Taxation and Claims; and Appropriations.

By Representative Harris—

HB 1133—A bill to be entitled An act relating to the Immokalee Fire Control District, Collier County; amending section 1 of chapter 30666, Laws of Florida, 1955, as amended; expanding the boundaries of the district; providing for a referendum.

—was referred to the Committee on Rules and Calendar.

By Representative Webster and others—

HB 1251—A bill to be entitled An act relating to the Greater Orlando Aviation Authority, Orange County; amending chapter 57-1658, Laws of Florida, as amended, relating to the acquisition of property to satisfy mitigation requirements; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Langton and others—

HB 1281—A bill to be entitled An act relating to the Jacksonville Port Authority; amending chapter 63-1447, Laws of Florida, as amended, authorizing the Jacksonville Port Authority to make purchases in excess of $12,000 only after advertisement of notice and award to the lowest bidder; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Appropriations and Representative Rush—

CS for HB 1363—A bill to be entitled An act relating to petit theft; amending s. 812.014, F.S.; authorizing inclusion of any prior theft conviction in accumulating offenses for second and subsequent petit theft penalties; reenacting ss. 39.044(2)(d), 409.2665(18), 538.23(2), 550.63(10), 634.319(2), 634.421(2), 642.038(2), and 705.102(4), F.S., relating to juvenile detention, Medicaid fraud, receipt of stolen regulated metals property, intertrack wagering, reporting and accounting for funds received by sales representatives in certain fiduciary transactions, and unlawful appropriation of lost or abandoned property, to incorporate said amendments in references thereto; amending s. 812.015, F.S.; deleting a requirement of a conviction for theft as a requirement for the offense of resisting recovery, and reenacting ss. 538.09(5)(f) and 538.23(2), F.S., relating to secondhand dealers and secondary metals recyclers, to incorporate said amendment in references thereto; providing technical amendments; providing an effective date.

—was referred to the Committees on Criminal Justice and Appropriations.

By Representative Davis and others—

HB 1477—A bill to be entitled An act relating to Hillsborough County; repealing chapter 29130, Laws of Florida, Acts of 1953, as amended, pertaining to plats and platting of land in Hillsborough County; repealing chapter 57-1395, Laws of Florida, pertaining to conveying real property by metes and bounds description for the purpose or intent of avoiding compliance with the provisions of chapter 29130, Laws of Florida, Acts of 1953, as amended; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Corr and others—

HB 1479—A bill to be entitled An act relating to Hillsborough County; repealing section 1 of chapter 83-414, Laws of Florida, and section 1 of chapter 88-495, Laws of Florida, relating to the Hillsborough County Board of Criminal Justice; transferring its assets and liabilities to the Board of County Commissioners of Hillsborough County; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Figg and others—

HB 1483—A bill to be entitled An act relating to Hillsborough County; amending chapter 86-335, Laws of Florida; providing definitions; creating the Hillsborough Rivers Interlocal Planning Board; providing

membership and terms; providing rule-making authority; providing for a quorum; expanding the jurisdiction of the Planning Board; providing for the development of master plans; providing legislative intent; changing the name of the Hillsborough River Technical Advisory Council to the Hillsborough Rivers Advisory Committee and conforming the name throughout the bill; providing for membership and terms; providing for a quorum; providing for payments of travel expenses by the Hillsborough County City-County Planning Commission; providing for rulemaking authority; requiring units of local government to provide notice of certain rezoning applications; providing for repeal of chapter 86-335, Laws of Florida, and any amendments thereto; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Press—

HB 1553—A bill to be entitled An act relating to the Delray Beach Downtown Development Authority, Palm Beach County; amending chapter 71-604, Laws of Florida; expanding the Downtown Development Authority area description to include properties eastward of the Intracoastal Waterway, northward of current downtown development authority area to include those properties lying South of N.E. 4th Street, southward of the current Downtown Development Authority area to include those properties lying North of S.E. 3rd Street, bounded generally on the west by N.E. 1st Avenue, all such properties lying within the municipal boundaries of the City of Delray Beach; providing for a referendum; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Simone—

HB 1591—A bill to be entitled An act relating to the Manatee County Fire Prevention Code Enforcement Board and the Manatee County Fire Marshal Appeals Board; amending section 3 of chapter 85-461, Laws of Florida, as amended; providing a revised date of repeal; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Simone—

HB 1595—A bill to be entitled An act relating to Manatee County; repealing chapter 63-1595, Laws of Florida, which provides for the definition, licensing, and bonding of well drillers within Manatee County and regulates the digging, drilling, driving, or boring of wells and/or test holes or the rehabilitation capping or plugging of wells or test holes; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Hill—

HB 1611—A bill to be entitled An act relating to Martin County; amending chapter 63-1619, Laws of Florida; excluding the area within the corporate limits of the City of Stuart from county provisions regulating the issuance of special alcoholic beverage licenses; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Peeples—

HB 1627—A bill to be entitled An act relating to Lee County; amending ss. 1, 2, 3, 4, and 6 of ch. 309.25, Laws of Florida, 1955, as amended; redesignating the North Fort Myers Fire Control District as the North Fort Myers Fire Control and Rescue Service District; authorizing operation and maintenance of rescue services; revising the description of the territory of the district to incorporate deletions of territory from the district by s. 1, ch. 76-400, Laws of Florida, and s. 1, ch. 89-523, Laws of Florida; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Postsecondary Education and Representative Lawson and others—

CS for HB 1683—A bill to be entitled An act relating to postsecondary education; creating s. 240.4042, F.S.; providing for appeal of errors in determinations regarding eligibility for receipt of state student financial aid awards; providing for appointment of a committee to render decisions; providing for appeal of grievances at the institution; providing for deferred payment under certain conditions; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By Representative Simone—

HB 1695—A bill to be entitled An act relating to Manatee County; amending chapter 85-454, Laws of Florida, as amended; increasing the impact fees levied by the Braden River Fire Control and Rescue District; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Finance and Taxation; and Representative Abrams and others—

CS for HB 1883—A bill to be entitled An act relating to discretionary sales surtaxes; amending s. 212.055, F.S.; authorizing certain counties to levy health care surtaxes, subject to referendum, for certain purposes; providing for use of the proceeds; providing limitations and conditions; providing for notice requirements; limiting the surtaxes a county may levy; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; Community Affairs; Finance, Taxation and Claims; and Appropriations.

By Representative Peeples—

HB 1947—A bill to be entitled An act relating to the Bayshore Fire Protection and Rescue Service District, Lee County; amending chapter 76-414, Laws of Florida; authorizing the district board of commissioners to employ personnel for the operation of a fire and rescue department; removing the limit on maximum accumulative debt that may be incurred by the district; authorizing the district to acquire rescue equipment; authorizing the use of district funds for rescue equipment; authorizing the district to adopt rules for the operation of a rescue service; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Ritchie and others—

HB 2021—A bill to be entitled An act relating to the Escambia County Utilities Authority; amending chapter 81-376, Laws of Florida, as amended; providing that a fine, forfeiture, or penalty exceeding $500 but not exceeding $2,000 per day may be imposed for violation of authority rule or regulation when necessary to carry out a federally mandated program; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Peeples—

HB 2035—A bill to be entitled An act relating to the Fort Myers Beach Library District, Lee County; amending s. 5, ch. 65-1823, Laws of Florida; deleting provisions relating to acceptance of the district's annual budget by the Board of County Commissioners of Lee County or the Lee County Tax Assessor; amending s. 8, ch. 65-1823, Laws of Florida; requiring the Lee County Tax Collector to distribute taxes collected on behalf of the district in the manner prescribed by general law; amending s. 10, ch. 65-1823, Laws of Florida; requiring the treasurer of the district to make a report at each regular meeting of the district board; deleting the duty to file a copy of the report with the Lee County Board of County Commissioners; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Judiciary and Representative Ritchie—

CS for HB 2231—A bill to be entitled An act relating to foreclosures; creating the Foreclosure Study Commission; providing for membership and appointments; providing for the duties of the commission; providing for staff; providing for per diem and travel expenses; providing for a report; providing an appropriation; providing an effective date.

—was referred to the Committees on Judiciary; Appropriations; and Rules and Calendar.

By Representative Simone—

HB 2311—A bill to be entitled An act relating to Manatee County; amending chapter 82-321, Laws of Florida, relating to lot-clearing requirements for Manatee County; deleting certain kinds of noxious materials from such requirements; providing an exemption from such requirements for environmentally sensitive areas; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Agriculture and Representative Boyd—

HB 2441—A bill to be entitled An act relating to agricultural economic development; creating the Agricultural Economic Development Act; providing definitions; providing legislative intent; providing powers and duties of the Department of Agriculture and Consumer Services; authorizing the department to administer appropriations for agricultural economic development; requiring an annual report; providing for interaction between the department and other economic development agencies and groups; providing for use of agricultural economic development funds; providing authority to the department to promulgate rules for specified purposes; creating the Agricultural Economic Development Project Review Committee; providing powers and duties; repealing chapters 87-229 and 89-94, Laws of Florida, relating to the Agricultural Economic Development Program; providing for review and repeal; providing an effective date.

—was referred to the Committees on Agriculture; International Trade, Economic Development and Tourism; and Appropriations.

By the Committee on Governmental Operations and Representative Figg—

HB 2563—A bill to be entitled An act relating to the confidentiality of records relating to the licensing of persons engaged in the security industry; amending s. 493.6121, F.S., which provides an exemption from public records requirements for criminal justice information on applicants for licensure; amending s. 493.6122, F.S., which provides an exemption from public records requirements for records containing residence addresses and telephone numbers of applicants for licensure as a private investigator or recovery agent; saving such exemptions from repeal; providing for future review and repeal; providing an effective date.

—was referred to the Committee on Governmental Operations.

By the Committee on Judiciary and Representative Logan and others—

CS for HB 81—A bill to be entitled An act relating to child support; amending s. 61.046, F.S.; redefining the term "income"; amending s. 61.11, F.S.; providing for writs in support cases; amending s. 61.1301, F.S.; providing an additional requirement with respect to income deduction orders; providing an alternative enforcement method; amending s. 61.1354, F.S.; requiring the depository to report delinquencies in excess of $500 to credit reporting agencies; amending s. 61.14, F.S.; specifying certain conditions which may constitute "changed circumstances" for purposes of modification; providing for a presumption in enforcement actions; requiring additional information on delinquency notices; amending s. 61.16, F.S.; specifying how attorney's fees and other costs may be assessed; amending s. 61.17, F.S.; clarifying jurisdiction of court in Title IV-D cases; amending s. 61.181, F.S.; revising language with respect to the central depository for receiving, recording, reporting, monitoring, and disbursing alimony, support, maintenance, and child support payments; providing for disbursement of certain checks; providing additional requirements for the depositing with respect to Title IV-D agencies; authorizing the depository to require certain information; amending s. 61.183, F.S.; requiring certain costs to be assessed with respect to mediation; amending s. 61.30, F.S.; providing that the child support guidelines may provide a basis for modifying support orders; increasing the coverage of the child support guidelines; amending s. 68.02, F.S.; including support as a reason for issuance of a writ; amending s. 88.031, F.S.; providing for a definition of support; creating s. 88.0515, F.S.; providing additional methods for enforcing orders and judgments and providing for recovery of costs; amending s. 88.331, F.S.; limiting judicial jurisdiction under certain conditions; amending s. 409.2554, F.S.; expanding the definition of "program attorney," "prosecuting attorney," "support," and "administrative costs," and defining "child support services" and "past period child support"; amending s. 409.2557, F.S.; clarifying the Department of Health and Rehabilitative Services' authority with regard to child support orders; amending s. 409.2561, F.S.; providing for recovery of past period child support obligations; amending s. 409.2564, F.S.; providing for collection of interest; specifying the attorney-client relationship in Title IV-D cases, clarifying that attorney's fees and costs shall not be assessed against the Department of Health and Rehabilitative Services in support cases, and clarifying the Title IV-D agency's role in modifications; amending s. 409.2567, F.S.; including certain fees as administrative costs; amending s. 409.2571, F.S.; providing for services to the Title IV-D agency; amending s. 409.2577, F.S.; providing statutory clarification regarding access to confidential information; amending s. 409.2584, F.S.; revising language with respect to the interest earned on certain judgments; creating s. 409.2595, F.S.; providing for the admissibility in evidence of electronic data; creating s. 409.2598, F.S.; providing for suspension of licenses or certifications for delinquent support; amending s. 455.203, F.S.; providing for suspension of licenses for delinquent support; amending s. 559.79, F.S.; requiring additional data for license application; providing for suspension of licenses for delinquent support; requesting the Florida Supreme Court to adopt certain rules; amending s. 742.031, F.S.; extending application of child support guidelines to paternity cases; amending s. 742.06, F.S.; providing for attorney's fees, suit money, and costs in enforcement and modification proceedings; amending s. 742.08, F.S.; providing authority for assessment of certain costs and fees with respect to default of support payments; amending s. 742.10, F.S.; revising language with respect to establishment of paternity for certain children; amending s. 743.07, F.S.; revising rights and privileges of dependents over 18 years of age; amending s. 61.052, F.S.; providing that evidence establishing residency at a marriage dissolution hearing may be corroborated by an affidavit; amending s. 61.075, F.S.; revising language with respect to the equitable distribution of marital assets to include a reference to retaining the marital home; providing for a presumption in favor of equal division; providing for specific findings of fact with respect to the judgment distributing assets; providing for vesting of awards made for equitable distribution; amending s. 61.08, F.S.; providing, with respect to dissolution actions, that the court shall include certain findings of fact; amending s. 61.13, F.S.; providing for equal consideration in determining the primary residence of a child; creating s. 742.045, F.S.; providing for the award of attorney's fees and costs and providing that such award may be made directly to the attorney; amending s. 61.30, F.S.; amending the deductions from gross income allowable in computing the parents' combined net income so as to determine the minimum child support need; requiring the court order for child support to state the actual dollar amount provided as calculated under these guidelines; providing an effective date.

—was referred to the Committees on Judiciary; Health and Rehabilitative Services; and Professional Regulation.

By the Committee on Criminal Justice and Representative Wise and others—

CS for HB's 343, 759, 1139 and 2073—A bill to be entitled An act relating to driving under the influence; amending s. 316.193, F.S.; providing that driving with a specified breath alcohol level constitutes driving under the influence; providing minimum fines; requiring certain notice to the defendant; amending s. 316.1932, F.S.; specifying the basis for determining the percent of alcohol in blood or breath; expanding implied consent for blood tests; specifying persons who may withdraw blood for blood test purposes; providing for release of breath test information; amending s. 316.1933, F.S.; specifying persons who may withdraw blood; amending s. 316.1934, F.S.; defining "normal faculties"; providing admissibility of breath tests; specifying presumptions relating to impairment; providing for admissibility of an affidavit containing the results of a blood or breath test in specified circumstances; creating s. 316.1939, F.S.; providing for seizure and forfeiture of vehicles involved in certain cases of driving under the influence; providing exceptions; amending s. 327.35, F.S.; providing that operating a vessel with a specified breath alcohol level constitutes operating a vessel under the influence; requiring certain

notice to the defendant; providing for seizure and forfeiture of vessels involved in certain cases of operating a vessel under the influence; amending s. 327.352, F.S., relating to tests for impairment or intoxication with respect to operating a vessel under the influence, to conform; amending s. 327.354, F.S.; providing admissibility of breath tests; specifying presumptions relating to impairment; specifying the basis for determining the percent of alcohol in blood or breath; amending ss. 316.656, 322.291, and 327.36, F.S., to conform; reenacting ss. 322.03(2), 322.264, 322.271(2)(a), 322.28(2)(a) and (e) and (5)(a), 322.282(2)(a), 327.351(1) and (2), 327.3521(1) and (2), and 327.353, F.S., relating to accident reports, driver's licenses, and operation of a vessel while intoxicated, to incorporate the amendments to ss. 316.193, 316.1932, 316.1933, 316.1934, and 327.35, F.S., in references thereto; amending s. 90.803, F.S.; providing for admissibility of an affidavit containing the results of a blood or breath test notwithstanding the hearsay rule; amending s. 316.062, F.S.; providing that the duty of a person to give information regarding an accident to a law enforcement officer does not extend to information that would incriminate the person; amending ss. 316.066 and 324.051, F.S.; providing circumstances under which a law enforcement officer may testify as to statements made to him relating to accidents; amending s. 316.1937, F.S.; providing for defraying costs of installing ignition interlock devices, for probationers unable to pay therefor, from allocation of fines; amending ss. 316.192, 316.193, 322.2615, 322.282, and 322.64, F.S.; providing for the cancellation of the driving privilege of a person referred to substance abuse treatment for driving under the influence who fails to report or complete such treatment; prohibiting the release of a person arrested for driving under the influence until his normal faculties are no longer impaired, until his blood alcohol level is less than 0.05 percent, or until eight hours have elapsed; providing enhanced penalties for driving under the influence when a minor child is in the vehicle; providing for the use of out-of-state convictions; amending s. 316.1937, F.S.; providing for defraying costs of installing ignition interlock devices; revising provisions relating to administrative suspension of the driving privilege and disqualification from operating a commercial motor vehicle for driving under the influence or refusing to submit to a requested breath, blood, or urine test; providing that law enforcement officers or correctional officers may take such actions; specifying information that may be considered in a review of such action; specifying circumstances under which a review must be conducted; specifying scope of review; providing for issuance of temporary permits and licenses for business or employment use; specifying venue for appeals of suspensions and disqualifications; providing for reinstatement of driving privilege under certain circumstances; providing for notice of issuance of subpoenas; amending ss. 322.28, 322.264, and 322.271, F.S., to provide for similar convictions outside of this state; amending s. 322.271, F.S.; authorizing modification of suspension; amending s. 322.291, F.S., to conform; providing a severability clause; providing an effective date.

MOTION

On motion by Senator Thomas, the rules were waived and **CS for HB's 343, 759, 1139 and 2073** was placed on the calendar.

By the Committees on Finance and Taxation; and Natural Resources; and Representative Mitchell and others—

CS for CS for HB 365—A bill to be entitled An act relating to hunting and fishing; creating s. 372.105, F.S.; creating the Lifetime Fish and Wildlife Trust Fund; creating s. 372.106, F.S.; creating the Dedicated License Trust Fund; amending s. 372.561, F.S.; providing a fee to cover processing costs for lifetime or 5-year licenses; providing for remittance of funds; amending s. 372.57, F.S.; providing for a 5-year and lifetime sportsman's licenses for hunting and fishing; providing fees; amending s. 372.571, F.S.; revising language with respect to the expiration of licenses and stamps; providing reference to lifetime and 5-year licenses; amending s. 372.5712, F.S.; providing for the expenditure of certain revenues relating to waterfowl hunting privileges; amending s. 372.5715, F.S.; providing for the expenditure of certain revenues relating to turkey hunting privileges; amending s. 372.573, F.S.; providing for the expenditure of certain revenues relating to management area privileges; amending s. 372.60, F.S.; revising language with respect to the issuance of replacement licenses or stamps to include reference to lifetime and 5-year licenses; amending s. 372.661, F.S.; revising cross references with respect to private hunting preserve licenses; providing appropriations; amending s. 370.0605, F.S.; providing for a 5-year resident saltwater fishing license; providing a penalty; increasing certain fees; increasing the time period for paying certain civil penalties; providing fees; providing for the remittance of funds; providing for replacement licenses; amending s. 370.0608, F.S.; providing for the disposition of proceeds from 5-year licenses; creating s. 370.0615, F.S.; providing for lifetime saltwater fishing licenses; providing fees; amending s. 372.5717, F.S.; revising language with respect to Hunter Safety Program Requirements; providing effective dates.

—was referred to the Committees on Natural Resources and Conservation; Finance, Taxation and Claims; and Appropriations.

By the Committees on Appropriations; and Regulated Services and Technology; and Representatives Chinoy and Bloom—

CS for CS for HB 843—A bill to be entitled An act relating to consumer protection; creating part IV of chapter 501, F.S., relating to telemarketing; providing purpose and definitions; providing exemptions; providing requirements for licensure of commercial telephone sellers and salespersons by the Department of Agriculture and Consumer Services; requiring fees; providing for deposit of fees into the General Inspection Trust Fund; requiring certain disclosures; requiring display of licenses; providing for license renewal; providing security requirements; specifying grounds for denial of licensure; providing for general disclosures and disclosures of gifts and premiums to purchasers; requiring written contracts for purchase of consumer goods or services; providing for refund, credit, or replacement; specifying unlawful acts; providing investigative powers of enforcing authority; providing general civil remedies and civil penalties; providing for attorney's fees and costs; providing for referral to a criminal prosecuting authority; providing criminal penalties; requiring burden of proof of exempt businesses; providing additional individual remedies; providing for rules; providing for review and repeal; amending s. 501.059, F.S.; exempting the sale of cable television services to certain subscribers from contract requirements relating to telephone solicitation; providing an appropriation; providing an effective date.

—was referred to the Committees on Commerce; Finance, Taxation and Claims; and Appropriations.

By Representative Hawkins—

HB 953—A bill to be entitled An act relating to the Golden Gate Fire Control and Rescue District, Collier County; amending chapter 87-498, Laws of Florida, as amended; revising language to change type of payment received by fire commissioners from salary to stipend; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Lewis—

HB 1013—A bill to be entitled An act relating to the East Beach Water Control District, Palm Beach County, created by chapter 22877, Laws of Florida, 1945, as amended, amending chapter 75-469, Laws of Florida, to provide compensation pursuant to s. 298.14, F.S., to governing board members; establishing a maintenance tax cap of $50 per acre in any one year; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Insurance and Representative Arnall—

CS for HB 1061—A bill to be entitled An act relating to insurance; amending s. 626.2815, F.S.; changing certain continuing education requirements for insurance agents and other licensees; amending s. 626.88, F.S.; providing definitions; creating s. 626.8804, F.S.; establishing the administrator license fee; amending s. 626.8805, F.S.; revising requirements for a certificate of authority as an administrator; creating s. 626.8806, F.S.; providing exemptions for certain persons operating as administrators from the administrator certificate of authority requirements; creating s. 626.8807, F.S.; authorizing the department to waive registration requirements for certain administrators; creating s. 626.8808, F.S.; requiring registration of certain preempted administrators; amending s. 626.8817, F.S.; establishing responsibilities of an insurer contracting with an administrator; amending s. 626.882, F.S.; revising the requirements governing the written agreement required between an administrator and the insurer; amending s. 626.883, F.S.; providing requirements relating to payments of premiums or changes; establishing fiduciary requirements of administrators; establishing requirements for the written agreement between the administrator and the insurer; providing recordkeeping requirements of administrators; prohibiting claims payment by administrators from certain funds; establishing requirements

with respect to claims payment by an administrator; amending s. 626.884, F.S.; revising recordkeeping requirements with respect to an administrator; amending s. 626.888, F.S.; revising requirements and prohibitions relating to compensation by commission, fee, or other charge to the administrator by the insurer; creating s. 626.889, F.S.; revising notice requirements and disclosure of certain charges, fees, and commissions to insureds by administrators; amending s. 626.89, F.S.; revising the financial statement and filing fee requirements of administrators; amending s. 626.891, F.S.; revising grounds for suspension or revocation of an administrator's certificate of authority; amending s. 626.894, F.S.; providing for administrative fines; providing for restitution by administrators committing certain violations; creating s. 626.8945, F.S.; providing for conversion of service companies to administrators; providing 1 year for compliance; amending s. 627.736, F.S.; allowing motor vehicle insurers to utilize preferred provider arrangements under personal injury protection benefits and to give insureds the option to use such providers under certain conditions; repealing ss. 626.8809, 626.895, 626.897, 626.898, and 626.899, F.S., relating to the issuance of certificates of authority to service companies and regulating such companies; providing an effective date.

—was referred to the Committees on Commerce and Appropriations.

By Representative Langton and others—

HB 1099—A bill to be entitled An act relating to the City of Jacksonville Beach, Duval County; amending chapter 27643, Laws of Florida, 1951, as amended, being the Employees' Retirement System of the City of Jacksonville Beach, to make changes recommended by the Board of Trustees of the retirement system and the City Council, so as to change the vesting time, increase the final average compensation for retirements after September 30, 1990, to a maximum of 75 percent for the general group and 90 percent for firefighter and police officer groups, plus 2 percent per year after 30 years' service, and increasing the percentage of compensation to be paid by these groups accordingly; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Webster and others—

HB 1269—A bill to be entitled An act relating to Orange County; amending chapter 80-555, Laws of Florida; adding a member to the governing board of the Orange County Library District; providing that the additional member shall be appointed by the City Council of the City of Orlando; providing for terms of the appointment; providing budget and audit reporting requirements for the Orange County Library Board of Trustees; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Peeples—

HB 1321—A bill to be entitled An act relating to the City of Punta Gorda, Charlotte County; amending chapter 79-558, Laws of Florida, as amended, increasing maximum annual special assessment levies with respect to special taxing districts for the maintenance of canals, waterways, and navigable channels; repealing chapter 90-429, Laws of Florida, relating thereto, to conform with this act; providing a referendum.

—was referred to the Committee on Rules and Calendar.

By the Committee on Natural Resources and Representative Figg—

CS for HB 1339—A bill to be entitled An act relating to saltwater fisheries; creating s. 370.1535, F.S.; providing for the regulation of shrimp fishing in Tampa Bay; providing for a permit; providing a fee; providing for application; providing a definition; providing effective dates.

(Substituted for **CS for CS for SB 1264** after reconsideration this day.)

By Representative Hargrett and others—

HB 1485—A bill to be entitled An act relating to Hillsborough County; amending chapter 84-447, Laws of Florida; revising the composition of the membership of the Tampa Port Authority; providing for the filling of vacancies; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Davis and others—

HB 1487—A bill to be entitled An act relating to Hillsborough County; amending chapter 80-510, Laws of Florida, relating to the Hillsborough County Hospital Authority; exempting certain records, meetings, and activities of the authority from s. 286.011, F.S., relating to public meetings and records, and from s. 119.07(1), F.S., relating to inspection of public records; providing for termination of these exemptions if certain events occur; authorizing the governing board of the hospital authority to enter into contracts for the purpose of attracting new or additional business for the authority; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committees on Governmental Operations; and Rules and Calendar.

By the Committees on Appropriations; and Health and Rehabilitative Services; and Representative Mims and others—

CS for CS for HB 1519—A bill to be entitled An act relating to child labor; amending s. 450.012, F.S.; revising definitions; amending s. 450.021, F.S.; revising provisions relating to the minimum age for employment; amending s. 450.045, F.S.; providing for posting of notices; amending s. 450.061, F.S.; revising provisions relating to prohibited hazardous occupations; amending s. 450.081, F.S.; revising provisions relating to hours of work which are permitted; amending s. 450.121, F.S.; revising provisions relating to employees of the Division of Labor, Employment, and Training; amending s. 450.132, F.S.; providing requirements for employment of children by the entertainment industry; deleting provisions relating to certificates of identification for eligibility for employment; requiring the Motion Picture, Television, and Recording Industry Advisory Council to make recommendations regarding the employment of minors in the entertainment industry; amending s. 450.141, F.S.; providing penalties; requiring notice; creating s. 450.155, F.S.; creating the Child Labor Law Trust Fund and providing for uses of funds; amending s. 9, ch. 90-245, Laws of Florida, delaying effective date relating to certain farm labor registration provisions; providing effective dates.

—was referred to the Committees on Commerce and Appropriations.

By Representative Webster and others—

HB 1533—A bill to be entitled An act relating to the designation of state historic highways; designating a portion of roadway in Orange County as the "Old Opopka Road Historic Roadway"; providing for the erection of suitable markers; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Peeples—

HB 1551—A bill to be entitled An act relating to Lehigh Acres Fire Control and Rescue District, Lee County; amending chapter 63-1546, Laws of Florida, as amended; allowing the fire control board to conduct fire inspections and to inspect fire protection systems; allowing the board to provide services outside the district, in cooperation with other governmental entities; providing for rulemaking; allowing reasonable fees and providing for fee collection; increasing the maximum millage that may be levied by the district; providing for a referendum; providing effective dates.

—was referred to the Committee on Rules and Calendar.

By the Committee on Community Affairs and Representative Brennan and others—

CS for HB 1971—A bill to be entitled An act relating to community development; amending s. 290.007, F.S.; providing additional state and local incentives; authorizing certain loans or grants to certain businesses in enterprise zones; creating s. 290.0135, F.S.; providing legislative intent; requiring certain local governments to review ordinances for certain adverse impacts upon enterprise zones; authorizing certain local governments to waive, amend, or modify certain ordinances to reduce negative impacts within enterprise zones; providing for future repeal; amending s. 290.014; providing an additional reporting requirement; amending s. 290.0301, F.S., relating to the short title for the Community Development Corporation Support and Assistance Program Act; amending s. 290.0311, F.S.; revising and providing additional legislative findings; amending s. 290.032, F.S.; clarifying the purpose of the act; amending s. 290.033, F.S.;

revising and providing additional definitions; amending s. 290.034, F.S., relating to the Community Development Support and Assistance Trust Fund; amending s. 290.035, F.S.; revising the requirements which a community development corporation must meet to be eligible for assistance; amending s. 290.036, F.S.; removing an administrative funding restriction effective July 1, 1991; revising requirements relating to administrative grants and application therefor; specifying eligible activities; providing for development of a diminishing scale of funding; authorizing multiyear grants; providing for scoring criteria; creating s. 290.0365, F.S.; authorizing the award of planning grants to certain corporations; providing selection criteria; amending s. 290.037, F.S.; revising eligible uses of loan funds; revising a loan limitation; clarifying audit requirements; providing additional evaluation criteria; clarifying provisions relating to term of loans; amending s. 290.038, F.S.; deleting reporting requirements; creating s. 290.039, F.S.; requiring corporations to report to the Department of Community Affairs and providing for an annual report to the Legislature; creating s. 290.0395, F.S.; providing for evaluation of the program by the Auditor General; providing for future repeal of the act; amending ss. 288.063 and 290.007, F.S., to conform; amending s. 290.0065, F.S.; authorizing the department to approve changes in enterprise zone boundaries; providing an effective date for boundary changes; providing effective dates.

(Substituted for **CS for SB 2182** on the special order calendar this day.)

By Representative Peeples—

HB 2281—A bill to be entitled An act relating to Lee County; amending s. 9, chapter 63-1552, Laws of Florida, as amended; deleting the requirement that a candidate for the board must include in his qualifying oath a statement that he will receive no compensation for his services as a director; amending s. 11, chapter 63-1552, Laws of Florida, as amended; providing that members of the board may be compensated for their services as such and for travel expenses; providing that the board may grant board members the same privileges, benefits, and allowances that are provided to hospital staff and volunteers; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Harris—

HB 2499—A bill to be entitled An act relating to the Sebring Airport Authority, Highlands County; amending chapter 67-2070, Laws of Florida; allowing the authority to budget and use certain funds for promotion and public relations; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Hawkes—

HB 2599—A bill to be entitled An act relating to Marion County; creating the Silver Springs Shores Incorporation Review Committee; providing for membership; providing for duties; providing for a ballot with respect to of incorporation; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

RETURNING MESSAGES ON SENATE BILLS

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 106 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 106—A bill to be entitled An act relating to the purchase of real property; requiring a disclosure statement providing information regarding recreational facilities and charges; providing an effective date.

House Amendment 1—On page 1, line 9, strike everything after the enacting clause and insert:

Section 1. *Title Insurance Statutory Review Commission.—*

(1) There is created the Title Insurance Statutory Review Commission. The commission shall consist of six members appointed by the Governor, three members appointed by the Speaker of the House of Representatives, three members appointed by the President of the Senate, and one member to be the Insurance Commissioner or his designee from the Department of Insurance.

(2) The commission shall conduct a study of part V of chapter 626 and part XIII of chapter 627, Florida Statutes, and shall report its findings and recommendations to the Speaker of the House of Representatives, the President of the Senate, the majority leader and the minority leader of the House of Representatives and of the Senate, and the chairs of the Insurance Committees of the House of Representatives and the Senate no later than January 1, 1992. The commission shall remain in existence until the adjournment sine die of the 1992 Regular Session of the Legislature in order to serve as a resource for members and staff conducting the Regulatory Sunset Act review of said parts.

(3) The Governor shall appoint members to represent relevant interest groups, as follows:

(a) One representative of title insurance underwriters.

(b) One representative of title insurance agents.

(c) One representative of the banking and finance industry.

(d) One representative of real estate brokers.

(e) One representative of consumers.

(f) One representative of the construction and development industry.

(4) No more than one person appointed by the Speaker of the House of Representatives, and no more than one person appointed by the President of the Senate, may be a member of the Legislature.

(5) All appointments to the commission must be made by June 1, 1991.

(6) Any vacancy on the commission shall be filled in the same manner as the original appointment.

(7) The commission shall hold its first meeting no later than July 1, 1991. At its first meeting the commission shall elect a chair from among its members by majority vote. Subsequent meetings shall be held at the call of the chair, after reasonable notice to the members of the commission and the public.

(8) The commission may hold public hearings after reasonable public notice and may receive and consider any information it deems relevant.

(9) Members of the commission shall receive no salary, but are eligible for per diem and travel expenses pursuant to s. 112.061, Florida Statutes.

(10) The Department of Insurance shall, using existing resources, provide staff support for the commission.

(11) Expenses of the commission shall be paid out of the Insurance Commissioner's Regulatory Trust Fund out of moneys paid into the trust fund under s. 624.5015(7), Florida Statutes.

Section 2. Paragraph (a) of subsection (1) of section 626.9551, Florida Statutes, is amended to read:

626.9551 Favored agent or insurer; coercion of debtors.—

(1) No person may:

(a) Require, as a condition precedent or condition subsequent to the lending of money or extension of credit or any renewal thereof, that the person to whom such money or credit is extended, or whose obligation the creditor is to acquire or finance, negotiate any policy or contract of insurance, *including, but not limited to, title insurance,* through a particular insurer or group of insurers or agent or broker or group of agents or brokers.

Section 3. *At or before the closing on the sale of any residential real property, the title agent shall provide to the prospective buyer any recorded document which creates a homeowner's association the jurisdiction and authority of which may apply to such property and any other document which notifies the prospective buyer of any other cost, fee, or assessment which might create a lien on such property.*

Section 4. This act shall take effect upon becoming a law.

House Amendment 2—In title, on page 1, line 7, strike everything before the enacting clause and insert: A bill to be entitled An act relating to title insurance; creating the Title Insurance Statutory Review Commission; providing for appointment of members; requiring the commission to study and report to the Legislature on specified statutory provisions relating to title insurance; providing for expiration of the commission; providing restrictions on appointment authority; providing for filling of vacancies; providing for meetings; providing for election of a chair; providing for hearings; specifying information that may be considered by the commission; providing for per diem and travel expenses; requiring the Department of Insurance to provide staff support; providing for payment of commission expenses out of the Insurance Commissioner's Regulatory Trust Fund; amending s. 626.9551, F.S.; specifying that the prohibition against creditors coercing debtors with regard to insurance applies to title insurance; requiring title agents to provide certain documents to prospective buyers under certain circumstances; providing an effective date.

Senator Gardner moved the following amendments which were adopted:

Senate Amendment 1 to House Amendment 1—On page 3, lines 10-22, strike all of said lines and renumber subsequent sections.

Senate Amendment 1 to House Amendment 2—On page 2, strike all of lines 1-4 and insert: Regulatory Trust Fund; requiring

On motions by Senator Gardner, the Senate concurred in the House amendments as amended and the House was requested to concur in the Senate amendments to the House amendments.

CS for SB 106 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas— 34 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 120 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 120—A bill to be entitled An act relating to permits for drilling or exploring and extracting petroleum products or certain minerals; reenacting and amending s. 377.242, F.S.; authorizing the Department of Natural Resources to issue permits for the drilling for, exploring for, or production of certain oil, gas, or other petroleum products; providing restrictions on the location of structures used in that drilling, exploring, or production; providing an exemption from those restrictions for "infield gathering lines" in specified circumstances; authorizing the department to issue permits to explore for and extract certain minerals; requiring each permit to contain an agreement not to prevent departmental inspections; correcting cross-references; providing application of the act; providing an effective date.

House Amendment 1—On page 1, line 21, strike everything after the enacting clause and insert:

Section 1. Section 1 of chapter 89-175, Laws of Florida, is reenacted to read:

Section 1. It is the intent of the Legislature to preserve and protect Florida's sensitive coastal and marine resources from the environmental impacts of oil and gas exploration and development activities conducted in state and federal waters.

Section 2. Subsection (1) of section 206.9935, Florida Statutes, 1990 Supplement, is reenacted to read:

206.9935 Taxes imposed.—

(1) TAX FOR COASTAL PROTECTION.—

(a)1. There is hereby levied an excise tax for the privilege of producing in, importing into, or causing to be imported into this state pollutants for sale, use, or otherwise.

2. The tax shall be imposed only once on each barrel of pollutant when first produced in or imported into this state. The tax on pollutants first imported into or produced in this state shall be imposed when the product is first sold or first removed from storage. The tax shall be paid and remitted by any person who is licensed by the department to engage in the production or importation of motor fuel, special fuel, aviation fuel, or other pollutants.

(b) The excise tax shall be 2 cents per barrel of pollutant, or equivalent measure as established by the department, produced in or imported into this state until the balance in the Coastal Protection Trust Fund equals or exceeds $50 million. For the fiscal year immediately following the year in which the balance in the fund equals or exceeds $50 million, no excise tax shall be levied unless:

1. The balance in the fund is less than or equal to $40 million. For the fiscal year immediately following the year in which the balance in the fund is less than or equal to $40 million, the excise tax shall be and shall remain 2 cents per barrel or equivalent measure until the fund again equals or exceeds $50 million. For the fiscal year immediately following the year in which the fund again is equal to or exceeds $50 million, the excise tax and fund shall be controlled as when the fund first was equal to or exceeded $50 million.

2. There is a discharge of catastrophic proportions, the results of which could significantly reduce the balance in the fund. In the event of such a catastrophic occurrence, the Governor and Cabinet as the head of the Department of Natural Resources may, by rule, relevy the excise tax in an amount not to exceed 10 cents per barrel for a period of time sufficient to maintain the fund at a balance of $50 million, after payment of the costs and damages related to the catastrophic discharge.

3. The fund is unable to pay any proven claims against the fund at the end of the fiscal year. Notwithstanding any other provision of this subsection, for the fiscal year following the year in which the fund is unable to pay any proven claims against the fund at the end of the fiscal year, the excise tax shall be and shall remain 5 cents per barrel or equivalent measure until all outstanding proven claims have been paid and the fund again equals or exceeds $20 million. For the fiscal year immediately following the year in which the fund, after levy of the 5-cent excise tax, again is equal to or exceeds $20 million, the excise tax and fund shall be controlled in accordance with subparagraph 1., unless otherwise provided.

4. The fund has had appropriated to it by the Legislature, but has not yet repaid, state funds from the General Revenue Fund. In such event, the excise tax shall continue to be in effect until all such funds are repaid to the General Revenue Fund.

(c)1. Excluding natural gas drilling activities, if offshore oil drilling activity is approved by the United States Department of the Interior for the waters off the coast of this state in the Atlantic Ocean, Gulf of Mexico, or Straits of Florida, paragraph (b) shall not apply. Instead, the excise tax shall be 2 cents per barrel of pollutant, or equivalent measure as established by the department, produced in or imported into this state, and the proceeds shall be deposited into the Coastal Protection Trust Fund with a cap of $100 million.

2. If a discharge of catastrophic proportions occurs, the results of which could significantly reduce the balance in the fund, the Governor and Cabinet as the head of the Department of Natural Resources may, by rule, increase the levy of the excise tax to an amount not to exceed 10 cents per barrel for a period of time sufficient to pay any proven claim against the fund and restore the balance in the fund until it again equals or exceeds $50 million; except that for any fiscal year immediately following the year in which the fund is equal to or exceeds $50 million, the excise tax and fund shall be governed by the provisions of subparagraph 1.

Section 3. Section 376.11, Florida Statutes, 1990 Supplement, is reenacted to read:

376.11 Florida Coastal Protection Trust Fund.—

(1) The purpose of this section is to provide a mechanism to have financial resources immediately available for prevention of, and cleanup and rehabilitation after, a pollutant discharge, to prevent further damage by the pollutant, and to pay for damages. It is the legislative intent that this section be liberally construed to effect the purposes set forth, such interpretation being especially imperative in light of the danger to the environment and resources.

(2) The Florida Coastal Protection Trust Fund is established, to be used by the department as a nonlapsing revolving fund for carrying out the purposes of ss. 376.011-376.21. To this fund shall be credited all registration fees, penalties, judgments, damages recovered pursuant to s. 376.121, other fees and charges related to ss. 376.011-376.21, and the excise tax revenues levied, collected, and credited pursuant to ss. 206.9935(1) and 206.9945(1)(a). Charges against the fund shall be in accordance with this section.

(3) Moneys in the fund that are not needed currently to meet the obligations of the department in the exercise of its responsibilities under ss. 376.011-376.21 shall be deposited with the Treasurer to the credit of the fund and may be invested in such manner as is provided for by statute. Interest received on such investment shall be credited to the fund, except as otherwise specified herein.

(4) Moneys in the Florida Coastal Protection Trust Fund shall be disbursed for the following purposes and no others:

(a) Administrative expenses, personnel expenses, and equipment costs of the department related to the enforcement of ss. 376.011-376.21 subject to s. 376.185.

(b) All costs involved in the prevention and abatement of pollution related to the discharge of pollutants covered by ss. 376.011-376.21 and the abatement of other potential pollution hazards as authorized herein.

(c) All costs and expenses of the cleanup, restoration, and rehabilitation of waterfowl, wildlife, and all other natural resources damaged by the discharge of pollutants, including the costs of assessing and recovering damages to natural resources, whether performed or authorized by the department or any other state or local agency.

(d) All provable costs and damages which are the proximate results of the discharge of pollutants covered by ss. 376.011-376.21.

(e) Loans to the Inland Protection Trust Fund created in s. 376.3071.

(f) The interest earned from investments of the balance in the Florida Coastal Protection Trust Fund shall be used first for funding the administrative expenses, personnel expenses, and equipment costs of the department relating to the enforcement of ss. 376.011-376.21. When the balance in the trust fund is greater than $30 million, the amounts from interest earnings in excess of that needed for funding the department's costs previously identified shall be transferred by the department quarterly to the Save Our State Environmental Education Trust Fund created in the department.

(g) The funding of a grant program to coastal local governments, pursuant to s. 376.15(2)(b) and (c), for the removal of derelict vessels from the public waters of the state.

(h) The department may spend up to $1 million per year from the principal of the fund to acquire, design, train, and maintain emergency cleanup response teams and equipment located at appropriate ports throughout the state for the purpose of cleaning oil and other toxic materials from coastal waters. When the teams and equipment are not needed for these purposes they may be used for any other valid purpose of the department.

(i) To provide a temporary transfer of funds in an amount not to exceed $10 million to the Petroleum Exploration and Production Bond Trust Fund as set forth in s. 376.40.

(5) Any interest in lands acquired using moneys in the Florida Coastal Protection Trust Fund shall be held by the Trustees of the Internal Improvement Trust Fund, and such lands shall be acquired pursuant to the procedures set forth in s. 253.025.

(6) The department shall recover to the use of the fund from the person or persons causing the discharge or from the Federal Government, jointly and severally, all sums owed or expended from the fund, pursuant to s. 376.12(6), except that recoveries resulting from damage due to a discharge of a pollutant or other similar disaster shall be apportioned between the Florida Coastal Protection Trust Fund and the General Revenue Fund so as to repay the full costs to the General Revenue Fund of any sums disbursed therefrom as a result of such disaster. Requests for reimbursement to the fund for the above costs, if not paid within 30 days of demand, shall be turned over to the Department of Legal Affairs for collection.

Section 4. Paragraph (d) of subsection (1) of section 253.61, Florida Statutes, 1990 Supplement, is reenacted to read:

253.61 Lands not subject to lease.—

(1) Regardless of anything to the contrary contained in this law in any previous section or part thereof, no board or agency mentioned therein or the state shall have the power or authority to sell, execute or enter into any lease of the type covered by this law relating to any of the following lands, submerged or unsubmerged, except under the circumstances and conditions as hereinafter set out in this section, to wit:

(d) Without exception, after July 1, 1989, no lease of the type covered by this law shall be granted, sold, or executed south of 26° north latitude off Florida's west coast and south of 27° north latitude off Florida's east coast, within the boundaries of Florida's territorial seas as defined in 43 U.S.C. 1301. After July 31, 1990, no oil or natural gas lease shall be granted, sold, or executed covering lands located north of 26°00'00" north latitude off Florida's west coast to the western boundary of the state bordering Alabama as set forth in s. 1, Art. II of the State Constitution, or located north of 27°00'00" north latitude off Florida's east coast to the northern boundary of the state bordering Georgia as set forth in s. 1, Art. II of the State Constitution, within the boundaries of Florida's territorial seas as defined in 43 U.S.C. 1301.

Section 5. Subsection (9) of section 377.24, Florida Statutes, 1990 Supplement, is reenacted to read:

377.24 Notice of intention to drill well; permits; abandoned wells and dry holes.—

(9) Without exception, after July 1, 1989, no permit to drill a well in search of oil or gas shall be granted south of 26°00'00" north latitude off Florida's west coast and south of 27°00'00" north latitude off Florida's east coast, within the boundaries of Florida's territorial seas as defined in 43 U.S.C. 1301. After July 31, 1990, no permit to drill a well in search of oil or gas shall be granted north of 26°00'00" north latitude off Florida's west coast to the western boundary of the state bordering Alabama as set forth in s. 1, Art. II of the State Constitution, or located north of 27°00'00" north latitude off Florida's east coast to the northern boundary of the state bordering Georgia as set forth in s. 1, Art. II of the State Constitution, within the boundaries of Florida's territorial seas as defined in 43 U.S.C. 1301.

Section 6. Section 377.242, Florida Statutes, 1990 Supplement, is reenacted to read:

377.242 Permits for drilling or exploring and extracting through well holes or by other means.—The department is vested with the power and authority:

(1)(a) To issue permits for the drilling for, exploring for, or production of oil, gas, or other petroleum products which are to be extracted from below the surface of the land, including submerged land, only through the well hole drilled for oil, gas, and other petroleum products.

1. No structure intended for the drilling for, or production of, oil, gas, or other petroleum products may be permitted or constructed on any submerged land within any bay or estuary.

2. No structure intended for the drilling for, or production of, oil, gas, or other petroleum products may be permitted or constructed within 1 mile seaward of the coastline of the state.

3. No structure intended for the drilling for, or production of, oil, gas, or other petroleum products may be permitted or constructed within 1 mile of the seaward boundary of any state, local, or federal park or aquatic or wildlife preserve or on the surface of a freshwater lake, river, or stream.

4. No structure intended for the drilling for, or production of, oil, gas, or other petroleum products may be permitted or constructed within 1 mile inland from the shoreline of the Gulf of Mexico, the Atlantic Ocean, or any bay or estuary or within 1 mile of any freshwater lake, river, or stream unless the department is satisfied that the natural resources of such bodies of water and shore areas of the state will be adequately protected in the event of accident or blowout.

5. Without exception, after July 1, 1989, no structure intended for the drilling for, or production of, oil, gas, or other petroleum products may be permitted or constructed south of 26°00'00" north latitude off Florida's west coast and south of 27°00'00" north latitude off Florida's east coast,

within the boundaries of Florida's territorial seas as defined in 43 U.S.C. 1301. After July 31, 1990, no structure intended for the drilling for, or production of, oil, gas, or other petroleum products may be permitted or constructed north of 26°00'00" north latitude off Florida's west coast to the western boundary of the state bordering Alabama as set forth in s. 1, Art. II of the State Constitution, or located north of 27°00'00" north latitude off Florida's east coast to the northern boundary of the state bordering Georgia as set forth in s. 1, Art. II of the State Constitution, within the boundaries of Florida's territorial seas as defined in 43 U.S.C. 1301.

(b) Subparagraphs (a)1. and 4. do not apply to permitting or construction of structures intended for the drilling for, or production of, oil, gas, or other petroleum products pursuant to an oil, gas, or mineral lease of such lands by the state under which lease any valid drilling permits are in effect on the effective date of this act. In the event that such permits contain conditions or stipulations, such conditions and stipulations shall govern and supersede subparagraphs (a)1. and 4.

(c) The prohibitions of subparagraphs (a)1.-4. in this subsection do not include "infield gathering lines," provided no other placement is reasonably available and all other required permits have been obtained.

(2) To issue permits to explore for and extract minerals which are subject to extraction from the land by means other than through a well hole.

Each permit shall contain an agreement by the permitholder that the permitholder will not prevent inspection by division personnel at any time.

Section 7. Section 380.31, Florida Statutes, is reenacted to read:

380.31 Coastal Resources Interagency Management Committee established.—There is established a Coastal Resources Interagency Management Committee composed of: the Secretary of Commerce, the Secretary of Community Affairs, the Secretary of Environmental Regulation, the Secretary of Transportation, the Assistant State Health Officer for Environmental Health in the Department of Health and Rehabilitative Services, the executive director of the Department of Natural Resources, the executive director of the Marine Fisheries Commission, the executive director of the Game and Fresh Water Fish Commission, the director of the Division of Historical Resources of the Department of State, the director of the Division of Forestry of the Department of Agriculture and Consumer Services, and the director of the Governor's Office of Planning and Budgeting. Each member shall attend the meetings of the committee or appoint a designee. A designee shall be a policymaking administrator who can speak for the agency.

Section 8. Section 380.32, Florida Statutes, is reenacted to read:

380.32 Duties and responsibilities of the Coastal Resources Interagency Management Committee.—The Coastal Resources Interagency Management Committee shall:

(1) Have the primary responsibility for addressing problem issues and developing means of resolving conflicts and inconsistencies in the implementation of laws, research, and funding programs under the jurisdictions of the member agencies. The committee shall make recommendations to the Governor and Cabinet on specific actions necessary to implement improvements to the state coastal management program.

(2) Develop a priority list of work items and a time schedule for the resolution of each item. Members of the committee shall direct their respective program staffs who serve on the Coastal Resources Interagency Advisory Committee to participate in the implementation of the approved priority work items and completion of specific coastal zone management grant work tasks to the extent compatible with statutory responsibilities of the agencies. Cooperation among agencies and coordination of agency activities shall be conducted in a manner consistent with the state coastal management program.

(3) Give special attention to the management and protection of coastal resources, including wetlands, watersheds, estuarine and marine systems, beaches, and cultural resources by working to improve natural storm hazard prevention and mitigation, discouraging research and funding practices which create conflicts with natural resource management policies, and ensuring a more efficient, effective, and coordinated administration of environmental laws and guidelines.

(4) Conduct thorough and timely reviews of proposed direct federal activities and development projects, federal assistance projects, federally licensed and permitted activities, and outer continental shelf exploration and development plans to ensure that such activities and uses are conducted in a manner consistent with the state coastal management program.

(5) Work together to implement the State Comprehensive Plan within member agencies. Each agency shall ensure that its functional plan and management processes achieve and are consistent with the legislatively approved State Comprehensive Plan in chapter 187 and with the policy plans set out in chapter 186.

(6) Submit a report by March 1, 1990, to the Governor and Cabinet, the Speaker of the House of Representatives, the President of the Senate, and the minority leaders of the House of Representatives and the Senate on the status of the Florida Coastal Management Act of 1978, ss. 380.21-380.25. The report shall include legislative and administrative recommendations regarding ways to improve the provisions and implementation of the act and shall address:

(a) The progress of the integration of the state coastal zone management plan into the State Comprehensive Plan.

(b) Ways in which local governments can implement coastal management policies through existing processes guiding growth and development.

(c) Ways to coordinate and integrate the Florida Coastal Management Act with the state, regional, and local plans authorized by the Local Government Comprehensive Planning and Land Development Regulation Act.

(d) The impact on the Florida Coastal Management Act of past and proposed changes to the Federal Coastal Zone Management Act of 1972.

All agencies are encouraged to enter into memoranda of understanding and rulemaking to issues necessary to implement this section.

Section 9. Section 380.33, Florida Statutes, is reenacted to read:

380.33 Meetings, organization, and staff.—

(1) The first meeting of the Coastal Resources Interagency Management Committee shall be held no later than 30 days after June 27, 1989, at the call of the chairperson. The committee shall meet at least quarterly, and more often as necessary, at the call of the chairperson. The committee shall establish procedures for the conduct of committee business. The chairperson shall provide the minutes of each meeting to the Governor and Cabinet and shall make presentations annually or as often as the Governor and Cabinet request.

(2) The Secretary of Environmental Regulation shall serve as chairperson and the executive director of the Department of Natural Resources shall serve as vice chairperson for the first year. Thereafter, the positions of committee chairperson and vice chairperson shall rotate annually, each July, among the executive director of the Department of Natural Resources, the Secretary of Community Affairs, and the Secretary of Environmental Regulation, in that order. The vice chairperson shall be the next committee chairperson.

(3) The Department of Environmental Regulation shall furnish staff to the committee through the department's Coastal Zone Management Section. Staff shall keep the Coastal Resources Interagency Management Committee apprised of the member agencies' progress toward their assignments and shall perform such other liaison and administrative functions as the committee directs.

Section 10. Subsection (5) of section 380.0558, Florida Statutes, is reenacted to read:

380.0558 Florida Area of Critical State Concern Restoration Trust Fund.—

(5) CREATION OF TRUST FUND.—All damages recovered by or on behalf of this state for injury to, or destruction of, the coral reefs or natural resources of the state that would otherwise be deposited in the general revenue accounts of the State Treasury or in the Internal Improvement Trust Fund shall be deposited in the Florida Area of Critical State Concern Restoration Trust Fund which is hereby created in the Department of Natural Resources, and shall remain in such account until expended by the department for the purposes of this section.

Section 11. Subsection (3) of section 253.04, Florida Statutes, is amended, and subsections (4), (5), (6), and (7) of said section are reenacted, to read:

253.04 Duty of board to protect, etc., state lands; state may join in any action brought.—

(3) The Department of Natural Resources is authorized to develop by rule a schedule for the assessment of civil penalties for damage to coral reefs in state waters. The highest penalty shall not exceed $1,000 per square meter of reef area damaged. The schedule may include additional penalties for aggravating circumstances, not to exceed $250,000 per occurrence. A determination of aggravating circumstances shall be based on factors relating to the cause of the damage such as, but not limited to:

(a) Absence of *extenuating* ~~attenuating~~ circumstances, such as weather conditions or other factors beyond the control of the vessel operator.

(b) Disregard for safe boating practices.

(c) Whether the vessel operator was under the influence of alcohol or drugs.

(d) Navigational error.

(e) Disregard for speed limits or other boating regulations.

(f) Failure to use available charts and equipment or to have such equipment on board.

(g) Willful or intentional nature of the violation.

(h) Previous coral reef damage caused by the vessel operator.

Penalties assessed according to this section may be doubled for damage to coral reefs located within the boundaries of John Pennekamp Coral Reef State Park.

(4) Whenever any person or the agent of any person knowingly refuses to comply with or willfully violates any of the provisions of this chapter so that such person causes damage to the lands of the state or products thereof, including removal of those products, such violator is liable for such damage. Whenever two or more persons or their agents cause damage, and if such damage is indivisible, each violator is jointly and severally liable for such damage; however, if such damage is divisible and may be attributed to a particular violator or violators, each violator is liable only for that damage and subject to the fine attributable to his violation.

(5) If a person or his agent as described in subsection (2) fails to comply with an order of the board to remove or alter a structure on state-owned land, the board may alter or remove the structure and recover the cost of the removal or alteration from such person.

(6) All fines imposed and damages awarded pursuant to this section are a lien upon the real and personal property of the violator or violators, enforceable by the Department of Natural Resources as are statutory liens under chapter 85.

(7) All moneys collected pursuant to fines imposed or damages awarded pursuant to this section shall be deposited into the Internal Improvement Trust Fund created by s. 253.01 and used for the purposes defined in that section.

Section 12. Paragraph (b) of subsection (4) and subsection (5) of section 403.413, Florida Statutes, are reenacted to read:

403.413 Florida Litter Law.—

(4) DUMPING LITTER PROHIBITED.—Unless otherwise authorized by law or permit, it is unlawful for any person to dump litter in any manner or amount:

(b) In or on any freshwater lake, river, canal, or stream or tidal or coastal water of the state, including canals. When any litter is thrown or discarded from a boat, the operator or owner of the boat, or both, shall be deemed in violation of this section; or

(5) PENALTIES; ENFORCEMENT.—

(a) Any person who dumps litter in violation of subsection (4) in an amount not exceeding 15 pounds in weight or 27 cubic feet in volume and not for commercial purposes is guilty of a noncriminal infraction, punishable by a civil penalty of $50. In addition, the court may require the violator to pick up litter or perform other labor commensurate with the offense committed.

(b) Any person who dumps litter in violation of subsection (4) in an amount exceeding 15 pounds in weight or 27 cubic feet in volume, but not exceeding 500 pounds in weight or 100 cubic feet in volume and not for commercial purposes is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition, the court shall require the violator to pick up litter or perform other community service commensurate with the offense committed. Further, if the violation involves the use of a motor vehicle, upon a finding of guilt, whether or not adjudication is withheld or whether imposition of sentence is withheld, deferred, or suspended, the court shall forward a record of the finding to the Department of Highway Safety and Motor Vehicles, which shall record a penalty of three points on the violator's driver's license pursuant to the point system established by s. 322.27.

(c) Any person who dumps litter in violation of subsection (4) in an amount exceeding 500 pounds in weight or 100 cubic feet in volume or in any quantity for commercial purposes, or dumps litter which is a hazardous waste as defined in s. 403.703, is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083. In addition, the court may order the violator to:

1. Remove or render harmless the litter that he dumped in violation of this section;

2. Repair or restore property damaged by, or pay damages for any damage arising out of, his dumping litter in violation of this section; or

3. Perform public service relating to the removal of litter dumped in violation of this section or to the restoration of an area polluted by litter dumped in violation of this section.

(d) A court may enjoin a violation of this section.

(e) A motor vehicle, vessel, aircraft, container, crane, winch, or machine used to dump litter that exceeds 500 pounds in weight or 100 cubic feet in volume is declared contraband and is subject to forfeiture in the same manner as provided in ss. 932.703 and 932.704.

(f) If a person sustains damages arising out of a violation of this section that is punishable as a felony, a court, in a civil action for such damages, shall order the person to pay the injured party threefold the actual damages or $200, whichever amount is greater. In addition, the court shall order the person to pay the injured party's court costs and attorney's fees. A final judgment rendered in a criminal proceeding against a defendant under this section estops the defendant from asserting any issue in a subsequent civil action under this paragraph which he would be estopped from asserting if such judgment were rendered in the civil action unless the criminal judgment was based upon a plea of no contest or nolo contendere.

(g) For the purposes of this section, if a person dumps litter from a commercial vehicle, that person is presumed to have dumped the litter for commercial purposes.

(h) In the criminal trial of a person charged with violating this section, the state does not have the burden of proving that the person did not have the right or authority to dump the litter or that litter dumped on private property causes a public nuisance. The defendant has the burden of proving that he had authority to dump the litter and that the litter dumped does not cause a public nuisance.

(i) It shall be the duty of all law enforcement officers to enforce the provisions of this section.

Section 13. Section 403.4135, Florida Statutes, is reenacted to read:

403.4135 Litter receptacles.—

(1) DEFINITIONS.—As used in this section "litter" and "vessel" have the same meanings as provided in s. 403.413.

(2) RECEPTACLES REQUIRED.—All ports, terminal facilities, boatyards, marinas, and other commercial facilities which house vessels and from which vessels disembark shall provide or ensure the availability of litter receptacles of sufficient size and capacity to accommodate the litter and other waste materials generated on board the vessels using its facilities, except for large quantities of spoiled or damaged cargos not usually discharged by a ship. The Department of Environmental Regulation may enforce violations of this section pursuant to ss. 403.121 and 403.131.

Section 14. Section 380.28, Florida Statutes, is reenacted to read:

380.28 The South Atlantic and Gulf States Coastal Protection Compact; implementing legislation.—

(1) FORM.—The Governor is hereby authorized and directed to execute a compact on behalf of Florida with any one or more of the States of North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, and Texas, legally joining therein in the form substantially as follows:

SOUTH ATLANTIC AND GULF STATES
COASTAL PROTECTION COMPACT

The contracting states solemnly agree:

ARTICLE I

FINDINGS, PURPOSES, AND RESERVATIONS OF POWERS.—

A. Findings.—Signatory states hereby find and declare:

1. The marine and coastal waters of all states bordering on the Gulf of Mexico and the South Atlantic Ocean, and adjacent coastal lands, marshes, and estuaries, are interrelated and require interstate attention and solutions.

2. Certain environmental problems transcend state boundaries and thereby become common to adjacent states and require cooperative efforts.

B. Purposes.—The purposes of the signatories in enacting this compact are:

1. To preserve the marine and coastal waters of the South Atlantic Ocean and the Gulf of Mexico, and their adjacent coastal lands, marshes, and estuaries, through coordination of interstate research, management, and conservation efforts and by the prevention of pollution of the subject land and waters in any form from any cause.

2. To develop, implement, and integrate uniform policies for the protection, use, and conservation of the marine and coastal waters of the South Atlantic Ocean and the Gulf of Mexico, and their adjacent coastal lands, marshes, and estuaries.

3. To plan for the welfare and development of marine and coastal resources, including fisheries, and coastal lands of the South Atlantic and the Gulf of Mexico, identifying those areas which require distinct protective efforts.

4. To secure and maintain a proper balance among industrial, commercial, agricultural, residential, recreational, and other legitimate uses of the marine and coastal resources in the affected states and waters.

C. Powers of the United States.—

1. Nothing contained in this compact shall impair, affect, or extend the constitutional authority of the United States.

2. The signatories hereby recognize the power and right of the Congress of the United States at any time by any statute expressly enacted for that purpose to revise the terms and conditions of its consent.

D. Powers of the states.—Nothing contained in this compact shall impair or extend the constitutional authority of any signatory state, nor shall the police powers of any signatory state be affected except as expressly provided in this compact.

The enumerated purposes shall not act to limit the scope of this compact.

ARTICLE II

EFFECTIVE DATE.—

This agreement shall become operative immediately as to those states executing it whenever any two or more of the States of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas have executed it in the form that is in accordance with the laws of the executing state and the Congress has given its consent. Any coastal state contiguous with any of such states may become a party hereto with approval by a majority vote of the commission as a whole.

ARTICLE III

COMPACTING STATES' AUTHORITY.—

Each state bound hereby agrees that within a reasonable time it will review and consider the commission's recommendations for future enactment and implementation.

ARTICLE IV

COMMISSION; CREATION AND COMPOSITION.—

Each state joining this compact shall appoint three representatives to a commission hereby constituted and designated as the South Atlantic and Gulf States Coastal Protection Commission. One representative shall be the executive officer of the administrative agency of such state charged with the enforcement of environmental regulations to which this compact pertains or, if there is more than one office or agency, the official of the state named by the governor thereof. The second representative shall be a member of the legislature of such state, appointed by the legislature of such state. The third representative shall be a citizen who has a knowledge of and an interest in marine and coastal environmental problems, appointed by the governor. The commission shall be a body corporate with the powers and duties set forth in this compact.

ARTICLE V

COMMISSION; DUTIES.—

The duties of the commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances, and conditions necessary for bringing about the development and implementation of uniform policies for the protection of the South Atlantic Ocean and the Gulf of Mexico, and adjacent coastal lands, marshes, and estuaries. The commission shall have the power to recommend the coordination of the exercise of the powers of the several states within their respective jurisdiction to carry out the purposes of this compact. To that end, the commission shall draft and recommend to the governors of the various signatory states legislation dealing with the preservation, management, conservation, control, and supervision of marine and coastal waters and their adjacent coastal lands, marshes, and estuaries. The commission shall, more than 2 months prior to any regular meeting of the legislature in any signatory state, present to the governor of the state its recommendations relating to enactments to be made by the legislature of that state in furthering the intent and purposes of this compact. The commission shall consult with and advise the pertinent administrative agencies in the states party to this compact with regard to problems connected with the preservation, management, conservation, control, and supervision of the South Atlantic Ocean and the Gulf of Mexico, and related coastal lands, marshes, and estuaries.

ARTICLE VI

COMMISSION; ELECTIONS.—

The commission shall elect from its number a chairman and a vice chairman and shall appoint, remove, or discharge, at its pleasure, such officers and employees as may be required to carry the provisions of this compact into effect and shall fix and determine their duties, qualifications, and compensation. The commission shall adopt rules and regulations for the conduct of its business. It may establish and maintain one or more offices for the transaction of its business and may meet at any time or place, but must meet at least once a year.

ARTICLE VII

COMMISSION; VOTING.—

No action shall be taken by the commission in regard to its general affairs except by the affirmative vote of a majority of the whole number of compacting states present at any meeting. No recommendation shall be made by the commission in regard to the promulgation of uniform laws promoting the preservation, management, conservation, control, supervision, and use of the marine and coastal resources of the South Atlantic and the Gulf of Mexico, and adjacent coastal lands, marshes, and estuaries, except by affirmative vote of a majority of the interested compacting states. The commission shall define what shall be an interested compacting state.

ARTICLE VIII

RESERVATION OF POWER.—

Nothing in this compact shall be construed to limit the powers of any signatory state to repeal or prevent the enactment of any legislation or to impose additional conditions to preserve, maintain, conserve, control, or

supervise the marine and coastal waters and coastal lands of the South Atlantic Ocean and the Gulf of Mexico. This compact shall authorize the compacting parties to do all things reasonably necessary for carrying out the purposes of this act, but the compact shall be entered into solely for the purpose of empowering the duly appointed representatives of the compacting states to meet, consult with, and make recommendations to their respective governors, legislative bodies, or governmental agencies with respect to the preservation, management, conservation, control, and supervision of the marine and coastal waters and coastal lands, marshes, and estuaries of the South Atlantic Ocean and the Gulf of Mexico. However, it is distinctly provided that any such recommendation and any decision or agreement arrived at among the compacting parties shall at no time have any force of law or be binding on any compacting party.

ARTICLE IX

COMMISSION; EXPENSES.—

Each compacting party shall pay for the expenses of its representatives on the commission and each compacting party shall pay to the secretary of the commission a pro rata share of the expenses of the commission. No expenditures shall be authorized under the provisions of this compact unless and until moneys are appropriated therefor by the legislatures of the compacting states.

ARTICLE X

COMPACT; TERM.—

This compact shall continue in force and remain binding upon each compacting state until renounced by it. Renunciation of this compact shall be preceded by sending 6 months' notice in writing of intention to withdraw from the compact to the other states party to this compact.

ARTICLE XI

A. POWERS OF COMMISSION AND COMMISSIONERS.—

There is hereby granted to the commission and the commissioners all the powers provided for in this compact and all the powers necessary or incidental to the carrying out of this compact.

B. POWERS OF COMMISSION SUPPLEMENTAL.—

Any powers granted to the commission by this compact shall be regarded as in aid of and supplemental to, and in no case a limitation upon, any of the powers vested in the commission by other laws of the State of Florida or by the laws of the States of North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, and Texas or by the Congress or the terms of this compact.

C. ACCOUNTS TO BE KEPT BY COMMISSION.—The commission shall keep accurate accounts of all receipts and disbursements and shall report to the governor and the legislature of each signatory state on or before the 10th day of December in each year, setting forth in detail the transactions conducted by it during the 12 months preceding December 1 of that year.

(2) COMMISSIONERS; APPOINTMENT AND REMOVAL.—In pursuance of Article IV, there shall be three members of the South Atlantic and Gulf Coast States Coastal Protection Commission from this state. The first commissioner from this state shall be the Secretary of Environmental Regulation, and the term of such commissioner shall terminate at the time he ceases to hold the office of Secretary of Environmental Regulation, and his successor as commissioner shall be his successor as secretary. The second commissioner from this state shall be a legislator, appointed alternately by the Speaker of the House of Representatives and the President of the Senate, and the term of such commissioner shall be 3 years. If the legislative member ceases to hold office before the expiration of his commission membership, the vacancy shall be filled for the remainder of the term by appointment by the appropriate presiding officer. The Governor shall appoint as a third commissioner a citizen who has a knowledge of and an interest in marine and coastal environmental problems. The term of the third commissioner shall be 3 years and he shall hold office until his successor is appointed and qualified. Vacancies occurring in the office of such commissioner for any reason or cause shall be filled by appointment by the Governor for the unexpired term. The Secretary of Environmental Regulation may delegate, from time to time, to any deputy or other subordinate in his department or office, the power to be present and participate, including the power to vote, as his representative or substitute at any meeting of or hearing by or other proceeding of the commission. The terms of each of the initial three members shall begin at the date the compact becomes operative as defined in Article II. The commissioners whom the Governor appoints shall serve at the pleasure of the Governor and may be removed by the Governor for any reason.

(3) STATE POLICY.—It is hereby declared to be the policy of the State of Florida to perform and carry out this compact and to accomplish the purposes thereof. All officers, bureaus, departments, and persons of and in the state government or administration of the State of Florida are hereby authorized and directed at convenient times and upon request of the commission to furnish the commission with information and data possessed by them, subject to the confidentiality provisions of chapter 119, and to aid the commission by loan of personnel or other means within their legal rights respectively.

(4) EXAMINATION OF COMMISSION ACCOUNTS.—The Department of Banking and Finance is hereby authorized and empowered from time to time to examine the accounts and books of the commission, including its receipts and disbursements, and such other items referring to its financial standing as the department may deem proper, and to report the results of such examination to the Governor.

(5) ADVISORY COMMITTEE.—An advisory committee to be representative of the recreational and commercial fishing interests, coastal and marine industries, petroleum industry, and conservation interests, and such other interests of this state as the Governor deems advisable, shall be established by the Governor as soon as practicable for the purpose of advising this state's members of the commission upon such recommendations as they may desire to make.

Section 15. Section 15 of chapter 89-175, Laws of Florida, is reenacted to read:

Section 15. (1) There is created the Spill Response Task Force consisting of twelve members to be appointed as follows. There shall be one representative from the Department of Natural Resources, who shall serve as committee chairperson; one representative from the Department of Environmental Regulation; and the Governor shall request the United States Coast Guard to designate a Coast Guard representative, stationed in Florida. The Speaker of the House of Representatives, the President of the Senate and the Governor shall each appoint three members and shall consider choosing from among the following: the ports and spillage cooperatives in the state; groups advocating the protection of the environment; and the petroleum industry. The Speaker of the House of Representatives and the President of the Senate may each choose one legislative member as one of their three appointees.

(2) Each task force member shall be entitled to receive per diem and expenses for travel, as provided in s. 112.061, Florida Statutes, while carrying out official business of the task force.

(3) The task force shall be staffed by the Department of Natural Resources.

(4) Appointments shall be made no later than July 15, 1989, and the task force shall continue to exist and appointed members shall continue to serve until June 1, 1990.

(5) The Spill Response Task Force shall:

(a) Investigate and evaluate Florida's readiness to respond to oil and hazardous material spills in coastal waters with regard to:

1. Prevention, including pilot training and certification, channel markings, safety regulations, and other prevention factors;

2. Containment of spilled material;

3. Removal of spilled material; and

4. Cleanup and disposal of waste and residual material from spills.

(b) Determine the existence of or need for a coordinated plan, and what elements the plan should contain, to implement prevention, containment, removal, and cleanup of oil and hazardous material spills.

(c) Meet with parties which have some responsibility in the prevention of and response to oil and hazardous material spills to receive comments and input relative to the task force's investigations.

(d) Consider in its investigation the capabilities and spill response program of the United States Government.

(e) Compile and review current inquiries, recent and ongoing studies, and legislation pertinent to spill response readiness.

(f) Submit to the Speaker of the House of Representatives, the President of the Senate, the minority leaders of the House of Representatives and the Senate, and the Governor by February 1, 1990, a report that clearly states recommendations necessary to improve the state's readiness to prevent, contain, remove, and clean up petroleum and hazardous material spills in coastal waters. The task force shall recommend in its report the designation of an existing or proposed governmental entity to be a central review and coordinating body for inquiries into and studies on spill response readiness. In addition to specific recommendations, the report shall include legislation needed to implement the recommendations.

(6) All meetings of the committee shall be noticed and open to the public.

Section 16. Section 22 of chapter 89-175, Laws of Florida, is reenacted to read:

Section 22. The Northwest Florida Water Management District, pursuant to its activities under the Surface Water Improvement and Management Act, shall, in cooperation with the Department of Natural Resources, conduct an assessment of the freshwater needs of the Apalachicola Bay. At a minimum, the assessment shall include a compilation of all existing data on the bay relevant to determining its freshwater needs and the collection of additional data necessary to produce a reliable scientific assessment of the bay's freshwater requirements.

Section 17. Section 43 of chapter 89-175, Laws of Florida, is reenacted to read:

Section 43. Subsection (5) of section 380.28, Florida Statutes, is repealed on October 1, 1999, and the advisory committee to Florida's members of the South Atlantic and Gulf States Coastal Protection Commission shall be reviewed by the Legislature pursuant to s. 11.611, Florida Statutes.

Section 18. *The reenactment by this act of portions of section 403.413, Florida Statutes, does not supersede the amendment to that section, effective October 1, 1993, contained in chapter 90-76, Laws of Florida.*

Section 19. This act shall take effect upon becoming a law.

House Amendment 2—In title, on page 1, lines 2-19, strike all of said lines and insert: An act relating to coastal resources; reenacting s. 1, ch. 89-175, Laws of Florida, relating to legislative intent; reenacting ss. 206.9935(1), 376.11, 253.61(1)(d), 377.24(9), 377.242, 380.31, 380.32, 380.33, 380.0558(5), 253.04(4)-(7), 403.413(4)(b) and (5), 403.4135, and 380.28, F.S., relating to the excise tax for coastal protection, the Florida Coastal Protection Trust Fund, lands not subject to lease, permits for drilling or exploring, the Coastal Resources Interagency Management Committee, the Florida Area of Critical State Concern Restoration Trust Fund, penalties for damage to state lands and coral reefs, coastal construction control lines, dumping of litter, litter receptacles, and the South Atlantic and Gulf States Coastal Protection Compact; amending s. 253.04, F.S., relating to penalties for damage to coral reefs; reenacting ss. 15, 22, and 43, ch. 89-175, Laws of Florida, relating to the Spill Response Task Force, duties of the Northwest Florida Water Management District, and scheduled repeals; providing that amendments which have not yet taken effect are not superseded; providing an effective date.

Senator Kirkpatrick moved the following amendments which were adopted:

Senate Amendment 1 to House Amendment 1—On page 1, line 13, through page 32, line 19, strike all of said lines and insert:

Section 1. Section 1 of chapter 89-175, Laws of Florida, is reenacted to read:

Section 1. It is the intent of the Legislature to preserve and protect Florida's sensitive coastal and marine resources from the environmental impacts of oil and gas exploration and development activities conducted in state and federal waters.

Section 2. Paragraph (b) of subsection (1) of section 253.01, Florida Statutes, is reenacted to read:

253.01 Internal Improvement Trust Fund established.—

(1)

(b) All revenues derived from application fees charged by the Division of State Lands for the use in any manner, lease, conveyance, or release of any interest in or for the sale of state lands, except revenues from such fees charged for aquaculture leases pursuant to s. 253.71(2), shall be placed into the Internal Improvement Trust Fund. The fees charged by the division for reproduction of records relating to state lands shall also be placed into the fund.

Section 3. Subsections (1), (2), and (4) of section 253.71, Florida Statutes, are reenacted to read:

253.71 The lease contract.—When the board has determined that the proposed lease is not incompatible with the public interest and that the applicant has demonstrated his capacity to perform the operations upon which the application is based, it may proceed to consummate a lease contract having the following features in addition to others deemed desirable by the board:

(1) TERM.—The maximum initial terms shall be 10 years. Leases shall be renewable for successive terms up to the same maximum upon agreement of the parties.

(2) RENTAL FEES.—

(a) The lease contract shall specify such amount of rental per acre of leased bottom as may be agreed to by the parties and shall take the form of fixed rental to be paid throughout the term of the lease. Beginning January 1, 1990, a surcharge of $5 per acre, or any fraction of an acre, per annum shall be levied upon each lease according to the guidelines set forth in s. 370.16(4)(b).

(b) All leases shall stipulate for the payment of the initial term's first year's annual rental within 30 days of the date of execution of the lease instrument, and payment of the annual rental fee for all succeeding years throughout the term of the lease on or before the anniversary date. Failure of the lessee to pay such rent within 30 days of such date shall constitute ground for cancellation of the lease and forfeiture to the state of all works, improvements, and animal and plant life in and upon the leased land and water column.

(4) PERFORMANCE REQUIREMENTS.—Failure of the lessee to perform effective cultivation shall constitute ground for cancellation of the lease and forfeiture to the state of all the works, improvements, and animal and plant life in and upon the leased land and water column. Effective cultivation shall consist of the grow out of the aquaculture product according to the guidelines set forth in s. 370.16(4)(e).

Section 4. Section 270.22, Florida Statutes, is reenacted to read:

270.22 Proceeds of state lands to go into Internal Improvement Trust Fund; exception.—

(1) Except as provided in subsection (2), the proceeds of state land, whether from sale, lease, rental, or the sale, lease, or rental of products in, on, or under such land, title to which has been or may be vested in the Board of Trustees of the Internal Improvement Trust Fund by the Legislature of this state, or of land which has been or may be received by the board of trustees from other sources, shall be paid into the Internal Improvement Trust Fund to become a part of that fund, subject to disposition as is provided by the laws of this state relating thereto.

(2) Rental fees for aquaculture leases pursuant to s. 253.71(2) shall be deposited into the Marine Biological Research Trust Fund of the Department of Natural Resources. Such fees generated by shellfish-related aquaculture leases shall be used for shellfish-related aquaculture activities, including research, lease compliance inspections, mapping, and siting.

Section 5. Subsection (4) of section 370.16, Florida Statutes, is reenacted and amended, and subsections (5) and (21) of that section are reenacted, to read:

370.16 Oysters and shellfish; regulation.—

(4) LEASES IN PERPETUITY; RENT; STIPULATIONS; TAXES; CULTIVATION, ETC.—

(a) All leases made under the provisions of this chapter shall begin on the day executed and continue in perpetuity under such restrictions as shall herein be stated. The rent for the first 10 years shall be $5 per acre,

or any fraction of an acre, per year. Beginning January 1, 1990, the actual rate charged for all leases shall consist of the minimum rate of $15 per acre, or any fraction of an acre, per year and shall be adjusted on January 1, 1995, and every 5 years thereafter, based upon the 5-year average change in the Consumer Price Index. However, the rent for any lease currently in effect shall not be increased during the first 10 years of said lease. This rent shall be paid in advance at the time of signing the lease up to January 1 following, and annually thereafter in advance on or before January 1, whether the lease be held by the original lessee or by an heir, assignee, or transferee.

(b) Beginning January 1, 1990, a surcharge of $5 per acre, or any fraction of an acre, per annum shall be levied upon each lease, *other than a perpetual lease granted pursuant to this subsection,* and deposited in the Marine Biological Research Trust Fund. Funds from this surcharge shall be segregated within the Marine Biological Research Trust Fund. The surcharge shall be levied until the balance of these segregated funds equals or exceeds $30,000. For the fiscal year immediately following the year in which the balance of these segregated funds equals or exceeds $30,000, no surcharge shall be levied unless the balance in these segregated funds is less than or equal to $20,000. For the fiscal year immediately following the year in which the balance of such segregated funds is less than or equal to $20,000, the surcharge shall be and shall remain $5 per acre, or any fraction of an acre, per annum until the balance of such segregated funds again is equal to or exceeds $30,000. The surcharge and segregated funds shall be controlled as when the balance of such segregated funds first was equal to or exceeded $30,000. The purpose of the surcharge is to provide a mechanism to have financial resources immediately available for cleanup and rehabilitation of abandoned or vacated lease sites. The department is authorized to promulgate rules necessary to carry out the provisions of this subsection.

(c) Moneys in the fund that are not needed currently for cleanup and rehabilitation of abandoned or vacated lease sites shall be deposited with the Treasurer to the credit of the fund and may be invested in such manner as is provided for by statute. Interest received on such investment shall be credited to the fund.

(d) Segregated funds within the Marine Biological Research Trust Fund from the surcharge established by paragraph (b) shall be disbursed for the following purposes and no others:

1. Administrative expenses, personnel expenses, and equipment costs of the department related to cleanup and rehabilitation of abandoned or vacated aquaculture lease sites and enforcement of provisions of subsections (1)-(13).

2. All costs involved in the cleanup and rehabilitation of abandoned or vacated lease sites.

3. All costs and damages which are the proximate results of lease abandonment or vacation.

4. The department shall recover to the use of the fund from the person or persons abandoning or vacating the lease, jointly and severally, all sums owed or expended from the fund. Requests for reimbursement to the fund for the above costs, if not paid within 30 days of demand, shall be turned over to the Department of Legal Affairs for collection.

(e) Effective cultivation shall consist of the growing of the oysters or clams in a density suitable for commercial harvesting over the amount of bottom prescribed by law. This commercial density shall be accomplished by the planting of seed oysters, shell, and cultch of various descriptions. The Division of Marine Resources may stipulate in each individual lease contract the types, shape, depth, size, and height of cultch materials on lease bottoms according to the individual shape, depth, location, and type of bottom of the proposed lease. Each tenant leasing from the state water bottoms under the provisions of this section shall have begun, within 1 year from the date of such lease, bona fide cultivation of the same, and shall, by the end of the second year from the commencement of his lease, have placed under cultivation at least one-fourth of the water bottom leased and shall each year thereafter place in cultivation at least one-fourth of the water bottom leased until the whole, suitable for bedding of oysters or clams, shall have been put in cultivation by the planting thereon of not less than 200 barrels of oysters, shell, or its equivalent in cultch to the acre. When leases are granted, or when grants have heretofore been made under existing laws for the planting of oysters or clams, such lessee or grantee is authorized to plant the leased or granted bottoms both in oysters and clams.

(f) These stipulations will apply to all leases granted after the passing of this section. All leases existing prior to the passing of this section will operate under the law which was in effect when the leases were granted.

(g) When evidence is gathered by the department and such evidence conclusively shows a lack of effective cultivation, the department may revoke leases and return the bottoms in question to the public domain. ~~The department shall monitor the cultivation of perpetual shellfish grants and leaseholds in the Apalachicola Bay by assigning a Marine Patrol officer or other department staff to the lease area during any planting activities on the lease area. The leaseholder or grantholder shall notify the Division of Marine Resources no less than 48 hours prior to the day or days of planting so that the division may arrange for such monitoring.~~

(h) The department has the authority to adopt rules and regulations pertaining to the water column over shellfish leases. All cultch materials in place 6 months after the formal adoption and publication of rules and regulations establishing standards for cultch materials on shellfish leases which do not comply with such rules and regulations may be declared a nuisance by the department. The department shall have the authority to direct the lessee to remove such cultch in violation of this section. The department may cancel a lease upon the refusal by the lessee violating such rules and regulations to remove unlawful cultch materials, and all improvements, cultch, marketable oysters, and shell shall become the property of the state. The department shall have the authority to retain, dispose of, or remove such materials in the best interest of the state.

(5) INCREASE OF RENTALS AFTER 10 YEARS.—After 10 years from the execution of the lease, the rentals shall be increased to a minimum of $1 per acre per annum. The department shall assess rental value on the leased water bottoms, taking into consideration their value as oyster-growing or clam-growing water bottoms, their nearness to factories, transportation, and other conditions adding value thereto and placing such valuation upon them in shape of annual rental to be paid thereunder as said condition shall warrant.

(21) DEPOSIT OF SHELLFISH LEASE RENTAL FEES.—Rental fees for shellfish leases issued under this section shall be deposited into the Marine Biological Research Trust Fund and used for shellfish-related aquaculture activities, including research, lease compliance inspections, mapping, and siting.

Section 6. The amendment or republication in this act of any section, subsection, or paragraph of the Florida Statutes or Laws of Florida scheduled for repeal by chapter 83-134, Laws of Florida, as amended by section 2 of chapter 84-121, Laws of Florida, and as amended by section 19 of chapter 86-240, Laws of Florida, shall not affect the repeal of such section, subsection, or paragraph.

Section 7. Paragraph (d) of subsection (1) of section 253.61, Florida Statutes, 1990 Supplement, is reenacted to read:

253.61 Lands not subject to lease.—

(1) Regardless of anything to the contrary contained in this law in any previous section or part thereof, no board or agency mentioned therein or the state shall have the power or authority to sell, execute or enter into any lease of the type covered by this law relating to any of the following lands, submerged or unsubmerged, except under the circumstances and conditions as hereinafter set out in this section, to wit:

(d) Without exception, after July 1, 1989, no lease of the type covered by this law shall be granted, sold, or executed south of 26° north latitude off Florida's west coast and south of 27° north latitude off Florida's east coast, within the boundaries of Florida's territorial seas as defined in 43 U.S.C. 1301. After July 31, 1990, no oil or natural gas lease shall be granted, sold, or executed covering lands located north of 26°00'00" north latitude off Florida's west coast to the western boundary of the state bordering Alabama as set forth in s. 1, Art. II of the State Constitution, or located north of 27°00'00" north latitude off Florida's east coast to the northern boundary of the state bordering Georgia as set forth in s. 1, Art. II of the State Constitution, within the boundaries of Florida's territorial seas as defined in 43 U.S.C. 1301.

Section 8. Subsection (9) of section 377.24, Florida Statutes, 1990 Supplement, is reenacted to read:

377.24 Notice of intention to drill well; permits; abandoned wells and dry holes.—

(9) Without exception, after July 1, 1989, no permit to drill a well in search of oil or gas shall be granted south of 26°00'00" north latitude off Florida's west coast and south of 27°00'00" north latitude off Florida's east coast, within the boundaries of Florida's territorial seas as defined in 43 U.S.C. 1301. After July 31, 1990, no permit to drill a well in search of oil or gas shall be granted north of 26°00'00" north latitude off Florida's west coast to the western boundary of the state bordering Alabama as set forth in s. 1, Art. II of the State Constitution, or located north of 27°00'00" north latitude off Florida's east coast to the northern boundary of the state bordering Georgia as set forth in s. 1, Art. II of the State Constitution, within the boundaries of Florida's territorial seas as defined in 43 U.S.C. 1301.

Section 9. Section 377.242, Florida Statutes, 1990 Supplement, is reenacted and amended to read:

377.242 Permits for drilling or exploring and extracting through well holes or by other means.—The department is vested with the power and authority:

(1)(a) To issue permits for the drilling for, exploring for, or production of oil, gas, or other petroleum products which are to be extracted from below the surface of the land, including submerged land, only through the well hole drilled for oil, gas, and other petroleum products.

1. No structure intended for the drilling for, or production of, oil, gas, or other petroleum products may be permitted or constructed on any submerged land within any bay or estuary.

2. No structure intended for the drilling for, or production of, oil, gas, or other petroleum products may be permitted or constructed within 1 mile seaward of the coastline of the state.

3. No structure intended for the drilling for, or production of, oil, gas, or other petroleum products may be permitted or constructed within 1 mile of the seaward boundary of any state, local, or federal park or aquatic or wildlife preserve or on the surface of a freshwater lake, river, or stream.

4. No structure intended for the drilling for, or production of, oil, gas, or other petroleum products may be permitted or constructed within 1 mile inland from the shoreline of the Gulf of Mexico, the Atlantic Ocean, or any bay or estuary or within 1 mile of any freshwater lake, river, or stream unless the department is satisfied that the natural resources of such bodies of water and shore areas of the state will be adequately protected in the event of accident or blowout.

5. Without exception, after July 1, 1989, no structure intended for the drilling for, or production of, oil, gas, or other petroleum products may be permitted or constructed south of 26°00'00" north latitude off Florida's west coast and south of 27°00'00" north latitude off Florida's east coast, within the boundaries of Florida's territorial seas as defined in 43 U.S.C. 1301. After July 31, 1990, no structure intended for the drilling for, or production of, oil, gas, or other petroleum products may be permitted or constructed north of 26°00'00" north latitude off Florida's west coast to the western boundary of the state bordering Alabama as set forth in s. 1, Art. II of the State Constitution, or located north of 27°00'00" north latitude off Florida's east coast to the northern boundary of the state bordering Georgia as set forth in s. 1, Art. II of the State Constitution, within the boundaries of Florida's territorial seas as defined in 43 U.S.C. 1301.

(b) Subparagraphs (a)1. and 4. do not apply to permitting or construction of structures intended for the drilling for, or production of, oil, gas, or other petroleum products pursuant to an oil, gas, or mineral lease of such lands by the state under which lease any valid drilling permits are in effect on the effective date of this act. In the event that such permits contain conditions or stipulations, such conditions and stipulations shall govern and supersede subparagraphs (a)1. and 4.

(c) The prohibitions of subparagraphs (a)1.-4. in this subsection do not include "infield gathering lines," provided no other placement is reasonably available and all other required permits have been obtained.

(2) To issue permits to explore for and extract minerals which are subject to extraction from the land by means other than through a well hole.

Each permit shall contain an agreement by the permitholder that the permitholder will not prevent inspection by division personnel at any time. *The provisions of this section prohibiting permits for drilling or exploring for oil in coastal waters do not apply to any leases entered into before the effective date of this act.*

Section 10. Section 380.31, Florida Statutes, is reenacted to read:

380.31 Coastal Resources Interagency Management Committee established.—There is established a Coastal Resources Interagency Management Committee composed of: the Secretary of Commerce, the Secretary of Community Affairs, the Secretary of Environmental Regulation, the Secretary of Transportation, the Assistant State Health Officer for Environmental Health in the Department of Health and Rehabilitative Services, the executive director of the Department of Natural Resources, the executive director of the Marine Fisheries Commission, the executive director of the Game and Fresh Water Fish Commission, the director of the Division of Historical Resources of the Department of State, the director of the Division of Forestry of the Department of Agriculture and Consumer Services, and the director of the Governor's Office of Planning and Budgeting. Each member shall attend the meetings of the committee or appoint a designee. A designee shall be a policymaking administrator who can speak for the agency.

Section 11. Section 380.32, Florida Statutes, is reenacted and amended to read:

380.32 Duties and responsibilities of the Coastal Resources Interagency Management Committee.—The Coastal Resources Interagency Management Committee shall:

(1) Have the primary responsibility for addressing problem issues and developing means of resolving conflicts and inconsistencies in the implementation of laws, research, and funding programs under the jurisdictions of the member agencies. The committee shall make recommendations to the Governor and Cabinet on specific actions necessary to implement improvements to the state coastal management program.

(2) Develop a priority list of work items and a time schedule for the resolution of each item. Members of the committee shall direct their respective program staffs who serve on the Coastal Resources Interagency Advisory Committee to participate in the implementation of the approved priority work items and completion of specific coastal zone management grant work tasks to the extent compatible with statutory responsibilities of the agencies. Cooperation among agencies and coordination of agency activities shall be conducted in a manner consistent with the state coastal management program.

(3) Give special attention to the management and protection of coastal resources, including wetlands, watersheds, estuarine and marine systems, beaches, and cultural resources by working to improve natural storm hazard prevention and mitigation, discouraging research and funding practices which create conflicts with natural resource management policies, and ensuring a more efficient, effective, and coordinated administration of environmental laws and guidelines.

(4) Conduct thorough and timely reviews of proposed direct federal activities and development projects, federal assistance projects, federally licensed and permitted activities, and outer continental shelf exploration and development plans to ensure that such activities and uses are conducted in a manner consistent with the state coastal management program.

(5) Work together to implement the State Comprehensive Plan within member agencies. Each agency shall ensure that its functional plan and management processes achieve and are consistent with the legislatively approved State Comprehensive Plan in chapter 187 and with the policy plans set out in chapter 186.

~~(6) Submit a report by March 1, 1990, to the Governor and Cabinet, the Speaker of the House of Representatives, the President of the Senate, and the minority leaders of the House of Representatives and the Senate on the status of the Florida Coastal Management Act of 1978, ss. 380.21-380.25. The report shall include legislative and administrative recommendations regarding ways to improve the provisions and implementation of the act and shall address:~~

~~(a) The progress of the integration of the state coastal zone management plan into the State Comprehensive Plan.~~

~~(b) Ways in which local governments can implement coastal management policies through existing processes guiding growth and development.~~

~~(c) Ways to coordinate and integrate the Florida Coastal Management Act with the state, regional, and local plans authorized by the Local Government Comprehensive Planning and Land Development Regulation Act.~~

~~(d) The impact on the Florida Coastal Management Act of past and proposed changes to the Federal Coastal Zone Management Act of 1972.~~

All agencies are encouraged to enter into memoranda of understanding and rulemaking to further define the specific implementation, cooperation, and planning activities related to coastal issues necessary to implement this section.

Section 12. Section 380.33, Florida Statutes, is reenacted and amended to read:

380.33 Meetings, organization, and staff.—

(1) ~~The first meeting of the Coastal Resources Interagency Management Committee shall be held no later than 30 days after June 27, 1989, at the call of the chairperson.~~ The *Coastal Resources Interagency Management* Committee shall meet at least quarterly, and more often as necessary, at the call of the chairperson. The committee shall establish procedures for the conduct of committee business. The chairperson shall provide the minutes of each meeting to the Governor and Cabinet and shall make presentations annually or as often as the Governor and Cabinet request.

(2) ~~The Secretary of Environmental Regulation shall serve as chairperson and the executive director of the Department of Natural Resources shall serve as vice chairperson for the first year. Thereafter,~~ The positions of committee chairperson and vice chairperson shall rotate annually, each July, among the executive director of the Department of Natural Resources, the Secretary of Community Affairs, and the Secretary of Environmental Regulation, in that order. The vice chairperson shall be the next committee chairperson.

(3) The Department of Environmental Regulation shall furnish staff to the committee through the department's Coastal Zone Management Section. Staff shall keep the Coastal Resources Interagency Management Committee apprised of the member agencies' progress toward their assignments and shall perform such other liaison and administrative functions as the committee directs.

Section 13. (1) Subsection (7) of section 2 of chapter 90-192, Laws of Florida, is repealed.

(2) Sections 380.31, 380.32, and 380.33, Florida Statutes, relating to the Coastal Resources Interagency Management Committee, as reenacted and amended by this act, are repealed October 1, 1992, and shall be reviewed by the Legislature prior to that date pursuant to section 11.611, Florida Statutes.

Section 14. Subsection (5) of section 380.0558, Florida Statutes, is reenacted to read:

380.0558 Florida Area of Critical State Concern Restoration Trust Fund.—

(5) CREATION OF TRUST FUND.—All damages recovered by or on behalf of this state for injury to, or destruction of, the coral reefs or natural resources of the state that would otherwise be deposited in the general revenue accounts of the State Treasury or in the Internal Improvement Trust Fund shall be deposited in the Florida Area of Critical State Concern Restoration Trust Fund which is hereby created in the Department of Natural Resources, and shall remain in such account until expended by the department for the purposes of this section.

Section 15. Subsection (3) of section 253.04, Florida Statutes, is amended, and subsections (4), (5), and (7) of that section are reenacted, to read:

253.04 Duty of board to protect, etc., state lands; state may join in any action brought.—

(3) The Department of Natural Resources is authorized to develop by rule a schedule for the assessment of civil penalties for damage to coral reefs in state waters. The highest penalty shall not exceed $1,000 per square meter of reef area damaged. The schedule may include additional penalties for aggravating circumstances, not to exceed $250,000 per occurrence. A determination of aggravating circumstances shall be based on factors relating to the cause of the damage such as, but not limited to:

(a) Absence of *extenuating* ~~attenuating~~ circumstances, such as weather conditions or other factors beyond the control of the vessel operator.

(b) Disregard for safe boating practices.

(c) Whether the vessel operator was under the influence of alcohol or drugs.

(d) Navigational error.

(e) Disregard for speed limits or other boating regulations.

(f) Failure to use available charts and equipment or to have such equipment on board.

(g) Willful or intentional nature of the violation.

(h) Previous coral reef damage caused by the vessel operator.

Penalties assessed according to this section may be doubled for damage to coral reefs located within the boundaries of John Pennekamp Coral Reef State Park.

(4) Whenever any person or the agent of any person knowingly refuses to comply with or willfully violates any of the provisions of this chapter so that such person causes damage to the lands of the state or products thereof, including removal of those products, such violator is liable for such damage. Whenever two or more persons or their agents cause damage, and if such damage is indivisible, each violator is jointly and severally liable for such damage; however, if such damage is divisible and may be attributed to a particular violator or violators, each violator is liable only for that damage and subject to the fine attributable to his violation.

(5) If a person or his agent as described in subsection (2) fails to comply with an order of the board to remove or alter a structure on state-owned land, the board may alter or remove the structure and recover the cost of the removal or alteration from such person.

(6) All fines imposed and damages awarded pursuant to this section are a lien upon the real and personal property of the violator or violators, enforceable by the Department of Natural Resources as are statutory liens under chapter 85.

(7) All moneys collected pursuant to fines imposed or damages awarded pursuant to this section shall be deposited into the Internal Improvement Trust Fund created by s. 253.01 and used for the purposes defined in that section.

Section 16. Subsection (4) of section 403.413, Florida Statutes, 1990 Supplement, is reenacted, and subsection (5) of that section is reenacted and amended, to read:

403.413 Florida Litter Law.—

(4) DUMPING LITTER PROHIBITED.—Unless otherwise authorized by law or permit, it is unlawful for any person to dump litter in any manner or amount:

(a) In or on any public highway, road, street, alley, or thoroughfare, including any portion of the right-of-way thereof, or any other public lands, except in containers or areas lawfully provided therefor. When any litter is thrown or discarded from a motor vehicle, the operator or owner of the motor vehicle, or both, shall be deemed in violation of this section;

(b) In or on any freshwater lake, river, canal, or stream or tidal or coastal water of the state, including canals. When any litter is thrown or discarded from a boat, the operator or owner of the boat, or both, shall be deemed in violation of this section; or

(c) In or on any private property, unless prior consent of the owner has been given and unless such litter will not cause a public nuisance or be in violation of any other state or local law, rule, or regulation.

(5) PENALTIES; ENFORCEMENT.—

(a) Any person who dumps litter in violation of subsection (4) in an amount not exceeding 15 pounds in weight or 27 cubic feet in volume and not for commercial purposes is guilty of a noncriminal infraction, punishable by a civil penalty of $50. In addition, the court may require the violator to pick up litter or perform other labor commensurate with the offense committed.

(b) Any person who dumps litter in violation of subsection (4) in an amount exceeding 15 pounds in weight or 27 cubic feet in volume, but not exceeding 500 pounds in weight or 100 cubic feet in volume and not for commercial purposes is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 *or*, s. 775.083~~, or s. 775.084~~. In addition,

the court shall require the violator to pick up litter or perform other community service commensurate with the offense committed. Further, if the violation involves the use of a motor vehicle, upon a finding of guilt, whether or not adjudication is withheld or whether imposition of sentence is withheld, deferred, or suspended, the court shall forward a record of the finding to the Department of Highway Safety and Motor Vehicles, which shall record a penalty of three points on the violator's driver's license pursuant to the point system established by s. 322.27.

(c) Any person who dumps litter in violation of subsection (4) in an amount exceeding 500 pounds in weight or 100 cubic feet in volume or in any quantity for commercial purposes, or dumps litter which is a hazardous waste as defined in s. 403.703, is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083. In addition, the court may order the violator to:

1. Remove or render harmless the litter that he dumped in violation of this section;

2. Repair or restore property damaged by, or pay damages for any damage arising out of, his dumping litter in violation of this section; or

3. Perform public service relating to the removal of litter dumped in violation of this section or to the restoration of an area polluted by litter dumped in violation of this section.

(d) A court may enjoin a violation of this section.

(e) A motor vehicle, vessel, aircraft, container, crane, winch, or machine used to dump litter that exceeds 500 pounds in weight or 100 cubic feet in volume is declared contraband and is subject to forfeiture in the same manner as provided in ss. 932.703 and 932.704.

(f) If a person sustains damages arising out of a violation of this section that is punishable as a felony, a court, in a civil action for such damages, shall order the person to pay the injured party threefold the actual damages or $200, whichever amount is greater. In addition, the court shall order the person to pay the injured party's court costs and attorney's fees. A final judgment rendered in a criminal proceeding against a defendant under this section estops the defendant from asserting any issue in a subsequent civil action under this paragraph which he would be estopped from asserting if such judgment were rendered in the civil action unless the criminal judgment was based upon a plea of no contest or nolo contendere.

(g) For the purposes of this section, if a person dumps litter from a commercial vehicle, that person is presumed to have dumped the litter for commercial purposes.

(h) In the criminal trial of a person charged with violating this section, the state does not have the burden of proving that the person did not have the right or authority to dump the litter or that litter dumped on private property causes a public nuisance. The defendant has the burden of proving that he had authority to dump the litter and that the litter dumped does not cause a public nuisance.

(i) It shall be the duty of all law enforcement officers to enforce the provisions of this section.

Section 17. Effective October 1, 1993, subsection (6) of section 403.413, Florida Statutes, as amended by section 1 of chapter 90-76, Laws of Florida, is reenacted to read:

403.413 Florida Litter Law.—

(6) PENALTIES; ENFORCEMENT.—

(a) Any person who dumps litter in violation of subsection (4) in an amount not exceeding 15 pounds in weight or 27 cubic feet in volume and not for commercial purposes is guilty of a noncriminal infraction, punishable by a civil penalty of $50. In addition, the court may require the violator to pick up litter or perform other labor commensurate with the offense committed.

(b) Any person who dumps litter in violation of subsection (4) in an amount exceeding 15 pounds in weight or 27 cubic feet in volume, but not exceeding 500 pounds in weight or 100 cubic feet in volume and not for commercial purposes is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. In addition, the court shall require the violator to pick up litter or perform other community service commensurate with the offense committed. Further, if the violation involves the use of a motor vehicle, upon a finding of guilt, whether or not adjudication is withheld or whether imposition of sentence is withheld, deferred, or suspended, the court shall forward a record of the finding to the Department of Highway Safety and Motor Vehicles, which shall record a penalty of three points on the violator's driver's license pursuant to the point system established by s. 322.27.

(c) Any person who dumps litter in violation of subsection (4) in an amount exceeding 500 pounds in weight or 100 cubic feet in volume or in any quantity for commercial purposes, or dumps litter which is a hazardous waste as defined in s. 403.703, is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083. In addition, the court may order the violator to:

1. Remove or render harmless the litter that he dumped in violation of this section;

2. Repair or restore property damaged by, or pay damages for any damage arising out of, his dumping litter in violation of this section; or

3. Perform public service relating to the removal of litter dumped in violation of this section or to the restoration of an area polluted by litter dumped in violation of this section.

(d) A court may enjoin a violation of this section.

(e) A motor vehicle, vessel, aircraft, container, crane, winch, or machine used to dump litter that exceeds 500 pounds in weight or 100 cubic feet in volume is declared contraband and is subject to forfeiture in the same manner as provided in ss. 932.703 and 932.704.

(f) If a person sustains damages arising out of a violation of this section that is punishable as a felony, a court, in a civil action for such damages, shall order the person to pay the injured party threefold the actual damages or $200, whichever amount is greater. In addition, the court shall order the person to pay the injured party's court costs and attorney's fees. A final judgment rendered in a criminal proceeding against a defendant under this section estops the defendant from asserting any issue in a subsequent civil action under this paragraph which he would be estopped from asserting if such judgment were rendered in the civil action unless the criminal judgment was based upon a plea of no contest or nolo contendere.

(g) For the purposes of this section, if a person dumps litter from a commercial vehicle, that person is presumed to have dumped the litter for commercial purposes.

(h) In the criminal trial of a person charged with violating this section, the state does not have the burden of proving that the person did not have the right or authority to dump the litter or that litter dumped on private property causes a public nuisance. The defendant has the burden of proving that he had authority to dump the litter and that the litter dumped does not cause a public nuisance.

(i) It shall be the duty of all law enforcement officers to enforce the provisions of this section.

(j) Any person who violates the provisions of subsection (5) is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083; provided, however, that any person who dumps more than 500 pounds or more than 100 cubic feet of raw human waste, or who dumps any quantity of such waste for commercial purposes, is guilty of a felony of the third degree, punishable as provided in paragraph (c).

Section 18. Section 403.4135, Florida Statutes, is reenacted to read:

403.4135 Litter receptacles.—

(1) DEFINITIONS.—As used in this section "litter" and "vessel" have the same meanings as provided in s. 403.413.

(2) RECEPTACLES REQUIRED.—All ports, terminal facilities, boatyards, marinas, and other commercial facilities which house vessels and from which vessels disembark shall provide or ensure the availability of litter receptacles of sufficient size and capacity to accommodate the litter and other waste materials generated on board the vessels using its facilities, except for large quantities of spoiled or damaged cargos not usually discharged by a ship. The Department of Environmental Regulation may enforce violations of this section pursuant to ss. 403.121 and 403.131.

Section 19. Section 22 of chapter 89-175, Laws of Florida, is reenacted to read:

Section 22. The Northwest Florida Water Management District, pursuant to its activities under the Surface Water Improvement and Management Act, shall, in cooperation with the Department of Natural Resources, conduct an assessment of the freshwater needs of the Apalachicola Bay. At a minimum, the assessment shall include a compilation of all existing data on the bay relevant to determining its freshwater needs and the collection of additional data necessary to produce a reliable scientific assessment of the bay's freshwater requirements.

Section 20. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

Senate Amendment 1 to House Amendment 2 —In title, on page 1, strike all of lines 12-31 and insert: An act relating to coastal resources; reenacting s. 1, ch. 89-175, Laws of Florida, relating to legislative intent; reenacting ss. 253.01(1)(b), 253.71(1), (2), and (4), 270.22, 370.16(5) and (21), F.S., relating to aquaculture leases and shellfish leases; amending s. 370.16, F.S.; deleting language relating to monitoring of cultivation of certain perpetual shellfish grants and leaseholds; providing intent with respect to scheduled repeal; reenacting s. 253.61(1)(d), F.S., relating to lands not subject to lease; reenacting s. 377.24(9), F.S., relating to permits for drilling or exploring; reenacting and amending s. 377.242, F.S., relating to permits for drilling, exploring, or extracting petroleum products; reenacting s. 380.31, F.S.; establishing the Coastal Resources Interagency Management Council; reenacting and amending ss. 380.32 and 380.33, F.S., relating to the duties and responsibilities of the Coastal Resources Interagency Management Council; repealing s. 2(7), ch. 90-192, Laws of Florida, relating to the future repeal and review of ss. 380.31, 380.32, 380.33, F.S.; providing for future review and repeal of said sections; reenacting s. 380.0558(5), F.S., relating to the Florida Areas of Critical State Concern Trust Fund; amending s. 253.04, F.S., and reenacting s. 253.04(4)-(7), F.S., relating to penalties for damage to state lands and coral reefs; reenacting and amending s. 403.413(4) and (5), s. 403.413(6), F.S., as amended by s. 1, ch. 90-76, Laws of Florida, and s. 403.4135, F.S., relating to the dumping of litter; providing for a study of the freshwater needs of Apalachicola Bay; providing an effective date.

On motions by Senator Kirkpatrick, the Senate concurred in the House amendments as amended and the House was requested to concur in the Senate amendments to the House amendments.

SB 120 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—33 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 238 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 238—A bill to be entitled An act relating to women's intercollegiate athletics; amending s. 240.533, F.S.; revising the composition of the Council on Equity in Athletics, providing for the length of terms for council members; abrogating the repeal of s. 240.533(3), F.S., scheduled pursuant to the Sundown Act; providing for future legislative review and repeal of s. 240.533(3), F.S.; providing an effective date.

House Amendment 1—Strike everything after the enacting clause and insert:

Section 1. Subsections (2), (3) and (4) of section 240.533, Florida Statutes, are amended and a new subsection (5) is added to said section to read:

240.533 Women's intercollegiate athletics.—

(2) LEGISLATIVE INTENT.—The Legislature recognizes that the educational opportunities for women athletes *are* ~~would be~~ greatly enhanced by providing equal opportunity for women to participate in intercollegiate athletics. Therefore, it is the intent of the Legislature to demonstrate through financial assistance to the State University System and the institutions therein its commitment to the principle of equity by assuring equal opportunity for female athletes. Furthermore, it is the intent of the Legislature that the Title IX requlations *of the 1972 Educational Amendments, as amended,* ~~as promulgated by the United States Department of Health, Education, and Welfare~~ form the basis upon which appropriations are made.

(3) COUNCIL.—

(a) There is created within the Board of Regents the Council on Equity in Athletics. The council shall meet at least once, but not more than four times, annually. The council shall be composed of:

~~1. One member of the board, appointed by the chairman of the board for a 2-year term.~~

1. ~~2.~~ The Chancellor of the State University System or a designee, who shall serve as chairman of the council.

2. The Commissioner of Education or a designee.

3. The President of the State Council of Student Body Presidents or a designee.

4. The Equal Employment Opportunity officer for the Department of Education or a designee.

5. The director of the Office of Equal Opportunity Programs for the Board of Regents.

~~6. The Title IX legislative representative of the Florida Collegiate Athletic Association, appointed by the president of that association.~~

6. ~~7.~~ One member from each institution *within the State University System, at least five of whom shall be women. Except for the Chancellor or his designee, the Commissioner of Education or designee, the Equal Employment Opportunity officer for the Department of Education, and the Director of the Board of Regents Office of Equal Opportunity Programs, and except for the President of the State Council of Student Body Presidents, or a designee, who shall be appointed to a term of 1 year, the terms of council members appointed to fill vacancies which occur after August 1, 1991, shall be as follows: three members shall be appointed for 2-year terms; three members shall be appointed for 3-year terms; and three members shall be appointed for 4-year terms. Upon expiration of these members' terms of office, terms of office shall be for 4 years.* ~~with at least one men's athletic director and one women's athletic director or primary women's athletic administrator representing the NCAA institutions in the State University System, Division 1, and with no fewer than five members being women's athletic directors or primary women's athletic administrators, to serve for 2-year terms.~~ Institutional members shall be nominated by the university presidents and selected by the Chancellor of the State University System. In the event of a vacancy prior to expiration of a member's term, such vacancy shall be filled by the Chancellor of the State University System.

(b) The council shall have as its primary responsibilities:

1. The determination of available resources for women's intercollegiate athletics at each institution within the State University System.

2. The determination of required resources for women's intercollegiate athletics at each institution within the State University System in order to comply with the provisions herein.

3. The development of a state formula for the request and allocation of funds based on the Title IX regulations, which shall assure equity for funding women's intercollegiate athletics at each institution within the State University System.

4. The advisement of the board of the required appropriation and allocation to assure equity as provided herein.

(4) FUNDING.—

(a) *An equitable* ~~A~~ portion of *all* ~~the~~ separate athletic *fees* ~~fee~~ shall be designated for women's intercollegiate athletics ~~to aid in the assurance of equal opportunity for female athletes, and such portion shall include the 30-cent-per-credit-hour portion of the student activity and service fee and the per-credit-hour equivalent of the 1978-1979 level of general support from the student activity and service fee. The president shall assure that neither the amount nor the percentage share of funding to women's intercollegiate athletics shall decrease.~~

(b) The level of funding and percentage share of ~~an institution's~~ support for women's intercollegiate athletics *shall be determined by the Board of Regents, in consultation with the Council on Equity in Athletics. The level of funding and percentage share* attained in the 1980-1981 fiscal year shall be the minimum level and percentage maintained by each institution, except as the *Board of Regents* ~~council~~ otherwise directs for the purpose of assuring equity. *Consideration shall be given by the*

Board of Regents to emerging athletic programs at state universities which may not have the resources to secure external funds to provide athletic opportunities for women. It is the intent that the effect of any redistribution of funds among institutions shall not negate the requirements as set forth in this section.

(c) In addition to the above amount, an amount equal to the sales taxes collected from admission to athletic events sponsored by an institution within the State University System shall be retained and utilized by each institution to support women's athletics.

~~(d) Whenever the amount appropriated by the Legislature from the General Revenue Fund to the state universities for women's intercollegiate athletics is equal to or greater than the amount appropriated for such purpose during the 1983-1984 fiscal year, each university shall receive, as a minimum, the amount provided in the 1983-1984 allocation. Any funds so appropriated which are in excess of the 1983-1984 appropriation shall be allocated among the universities as recommended by the Council on Equity in Athletics.~~

(5) BOARD OF REGENTS.—The Board of Regents shall assure equal opportunity for female athletes and establish:

(a) Guidelines for reporting of intercollegiate athletics data concerning financial, program, and facilities information for review by the Board of Regents annually.

(b) Systematic audits for the evaluation of such data.

(c) Criteria for determining and assuring equity.

Section 2. *It is the policy of this state that the appointive membership of each board, commission, council, and committee of the state established by statute be balanced by gender and minority person, as defined in s. 288.703(3)(a)-(e), representation, unless otherwise provided by the statute establishing the board, commission, council, or committee.*

Section 3. *Notwithstanding the provisions of the Sundown Act or of any other provision of law which provides for review and repeal in accordance with s. 11.611, Florida Statutes, section 240.533(3), Florida Statutes, shall not stand repealed on October 1, 1991, and shall continue in full force and effect as amended herein.*

Section 4. *Section 240.533(3), Florida Statutes, is repealed on October 1, 2001, and shall be reviewed by the Legislature pursuant to s. 11.611, Florida Statutes.*

Section 5. This act shall take effect October 1, 1991.

House Amendment 2—In title, on page 1, lines 2-10, strike all said lines and insert: An act relating to equitable rights; amending s. 240.533, F.S.; relating to women's intercollegiate athletics; deleting obsolete language; revising the composition of the Council on Equity in Athletics, providing for the length of terms for council members; revising funding for women's intercollegiate athletics; providing Board of Regents' duties; providing state policy relating to appointive membership of boards, commissions, councils, and committees; saving s. 240.533(3), F.S., from Sundown repeal; providing for future legislative review and repeal; providing an effective date.

Senator Walker moved the following amendments which were adopted:

Senate Amendment 1 to House Amendment 1 —Strike everything after the enacting clause and insert:

Section 1. Subsections (2), (3), and (4) of section 240.533, Florida Statutes, are amended and a new subsection (5) is added to that section to read:

240.533 Women's intercollegiate athletics.—

(2) LEGISLATIVE INTENT.—The Legislature recognizes that the educational opportunities for women athletes *are* ~~would be~~ greatly enhanced by providing equal opportunity for women to participate in intercollegiate athletics. Therefore, it is the intent of the Legislature to demonstrate through financial assistance to the State University System and the institutions therein its commitment to the principle of equity by assuring equal opportunity for female athletes. Furthermore, it is the intent of the Legislature that the Title IX regulations *of the 1972 Educational Amendments, as amended,* ~~as promulgated by the United States Department of Health, Education, and Welfare~~ form the basis upon which appropriations are made.

(3) COUNCIL.—

(a) There is created within the Board of Regents the Council on Equity in Athletics. The council shall meet at least once, but not more than four times, annually. The council shall be composed of:

~~1. One member of the board, appointed by the chairman of the board for a 2-year term.~~

1.~~2.~~ The Chancellor of the State University System or a designee, who shall serve as chairman of the council.

2. The Commissioner of Education or a designee.

3. The President of the State Council of Student Body Presidents or a designee.

4. The Equal Employment Opportunity officer for the Department of Education or a designee.

5. The director of the Office of Equal Opportunity Programs for the Board of Regents.

~~6. The Title IX legislative representative of the Florida Collegiate Athletic Association, appointed by the president of that association.~~

6.~~7.~~ One member from each institution *within the State University System, at least five of whom shall be women. The Chancellor or a designee, the Commissioner of Education or a designee, the Equal Employment Opportunity officer for the Department of Education or a designee, the director of the Office of Equal Opportunity Programs for the Board of Regents, and the President of the State Council of Student Body Presidents or a designee shall be appointed to a term of 1 year. The terms of the other council members who are appointed to fill vacancies which occur after October 1, 1991, shall be as follows: three members shall be appointed for 2-year terms; three members shall be appointed for 3-year terms; and three members shall be appointed for 4-year terms. Upon expiration of these members' terms of office, terms of office of the institutional members shall be 4 years* ~~with at least one men's athletic director and one women's athletic director or primary women's athletic administrator representing the NCAA institutions in the State University System, Division 1, and with no fewer than five members being women's athletic directors or primary women's athletic administrators, to serve for 2-year terms~~. Institutional members shall be nominated by the university presidents and selected by the Chancellor of the State University System. In the event of a vacancy prior to expiration of a member's term, such vacancy shall be filled by the Chancellor of the State University System.

(b) The council shall have as its primary responsibilities:

1. The determination of available resources for women's intercollegiate athletics at each institution within the State University System.

2. The determination of required resources for women's intercollegiate athletics at each institution within the State University System in order to comply with the provisions herein.

3. The development of a state formula for the request and allocation of funds based on the Title IX regulations, which shall assure equity for funding women's intercollegiate athletics at each institution within the State University System.

4. The advisement of the board of the required appropriation and allocation to assure equity as provided herein.

(4) FUNDING.—

(a) *An equitable* ~~A~~ portion of *all* ~~the~~ separate athletic *fees* ~~fee~~ shall be designated for women's intercollegiate athletics ~~to aid in the assurance of equal opportunity for female athletes, and such portion shall include the 30-cent per credit hour portion of the student activity and service fee and the per credit hour equivalent of the 1978-1979 level of general support from the student activity and service fee. The president shall assure that neither the amount nor the percentage share of funding to women's intercollegiate athletics shall decrease~~.

(b) The level of funding and percentage share of ~~an institution's~~ support for women's intercollegiate athletics *shall be determined by the Board of Regents, in consultation with the Council on Equity in Athletics. The level of funding and percentage share* attained in the 1980-1981 fiscal year shall be the minimum level and percentage maintained by each institution, except as the *Board of Regents* ~~council~~ otherwise directs for

the purpose of assuring equity. *Consideration shall be given by the Board of Regents to emerging athletic programs at state universities which may not have the resources to secure external funds to provide athletic opportunities for women. The effect of any redistribution of funds among institutions shall not negate the requirements as set forth in this section.*

(c) In addition to the above amount, an amount equal to the sales taxes collected from admission to athletic events sponsored by an institution within the State University System shall be retained and utilized by each institution to support women's athletics.

~~(d) Whenever the amount appropriated by the Legislature from the General Revenue Fund to the state universities for women's intercollegiate athletics is equal to or greater than the amount appropriated for such purpose during the 1983-1984 fiscal year, each university shall receive, as a minimum, the amount provided in the 1983-1984 allocation. Any funds so appropriated which are in excess of the 1983-1984 appropriation shall be allocated among the universities as recommended by the Council on Equity in Athletics.~~

(5) BOARD OF REGENTS.—The Board of Regents shall assure equal opportunity for female athletes and shall establish:

(a) Guidelines for reporting of intercollegiate athletics data concerning financial, program, and facilities information for annual review by the Board of Regents.

(b) Systematic audits for the evaluation of that data.

(c) Criteria for determining and assuring equity.

Section 2. Notwithstanding the provisions of section 1 of chapter 82-46, Laws of Florida, as amended by section 2 of chapter 83-265 and section 6 of chapter 84-94, Laws of Florida, section 240.533(3), Florida Statutes, shall not stand repealed on October 1, 1991, and shall continue in full force and effect as amended by this act.

Section 3. Section 240.533(3), Florida Statutes, is repealed October 1, 2001, and shall be reviewed by the Legislature pursuant to s. 11.611, Florida Statutes.

Section 4. This act shall take effect October 1, 1991.

Senate Amendment 1 to House Amendment 2—In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to women's intercollegiate athletics; amending s. 240.533, F.S.; correcting a reference; revising the membership and the terms of office of the Council on Equity in Athletics; revising funding for women's intercollegiate athletics; providing duties of the Board of Regents; saving s. 240.533(3), F.S., from Sundown Repeal; providing for future legislative review and repeal; providing an effective date.

On motions by Senator Walker, the Senate concurred in the House amendments as amended and the House was requested to concur in the Senate amendments to the House amendments.

SB 238 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—38 Nays—None

RECONSIDERATION

On motion by Senator Walker, the Senate reconsidered the vote by which **SB 238** passed as amended this day.

On motions by Senator Walker, the Senate reconsidered the vote by which the Senate concurred in **House Amendments 1** and **2** as amended.

On motions by Senator Walker, by two-thirds vote the Senate reconsidered the vote by which **Senate Amendment 1 to House Amendment 1** and **Senate Amendment 1 to House Amendment 2** were adopted. By permission, **Senate Amendment 1 to House Amendment 1** and **Senate Amendment 1 to House Amendment 2** were withdrawn.

Senator Walker moved the following amendments which were adopted:

Senate Amendment 2 to House Amendment 1—On page 5, strike all of lines 16-21 and insert:

Section 2. It is the goal of this state that the appointive membership of each board, commission, council, and committee of the state established by statute be balanced by gender and minority person, as defined in section 288.703(3)(a)-(e), Florida Statutes.

Senate Amendment 2 to House Amendment 2—In title, on page 1, strike line 22 and insert: providing a state goal relating to appointive

On motions by Senator Walker, the Senate concurred in the House amendments as amended and the House was requested to concur in the Senate amendments to the House amendments.

SB 238 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendment CS for SB 410 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 410—A bill to be entitled An act relating to the Community Hospital Education Council; amending s. 381.503, F.S.; revising the composition of the Community Hospital Education Council; providing for the length of terms for council members; abrogating the repeal of s. 381.503(5), F.S., scheduled pursuant to the Sundown Act; providing for future legislative review and repeal of s. 381.503(5), F.S.; providing an effective date.

House Amendment 1—Strike everything after the enacting clause and insert:

Section 1. Subsection (5) of section 381.503, Florida Statutes, is amended to read:

381.503 The Community Hospital Education Act.—

(5) COUNCIL AND DIRECTOR.—

(a) There is established the Community Hospital Education Council, hereinafter referred to as the council, which shall consist of *eleven* ~~nine~~ members, as follows:

1. Six members must be program directors of accredited graduate medical education programs or practicing physicians who have faculty appointments in accredited graduate medical education programs. Five of these members must be board certified or board eligible in family practice, internal medicine, pediatrics, emergency medicine, and psychiatry, respectively, and licensed pursuant to chapter 458. No more than one of these members may be appointed from any one specialty. One member must be licensed pursuant to chapter 459.

2. One member must be the program director or a practicing physician who has a faculty appointment in an accredited graduate medical education program and board certified or board eligible in a speciality not listed in subparagraph 1.

~~1. Three members must be program directors of accredited medical education in approved community hospital medical education programs;~~

~~2. Two members must be from private practice and serve as faculty members of approved community hospital education programs, one of whom must be licensed pursuant to chapter 458 and the other of whom must be licensed pursuant to chapter 459;~~

3. One member must be a representative of the administration of a hospital with an approved community hospital medical education program;

4. One member must be the dean of a medical school in this state; and

5. Two members must be consumer representatives.

All of the members shall be appointed by the Governor for terms of 4 years each.

(b) The member serving as chairman, the member licensed pursuant to chapter 459, and the members appointed pursuant to subparagraphs (a)3., 4., and 5. who are serving on October 1, 1991, shall continue to

serve until the expiration of the terms for which they were appointed. The terms of the remaining three members shall expire September 30, 1991. On or before October 1, 1991, the Governor shall appoint five members to satisfy the representative requirements of subparagraphs (a)1. and 2.

(c)~~(b)~~ Council membership shall cease when a member's representative status no longer exists. Members of similar representative status shall be appointed to replace retiring or resigning members of the council.

(d)~~(c)~~ The Chancellor of the State University System shall designate an administrator to serve as staff director. The council shall elect a chairman from among its membership. Such other personnel as may be necessary to carry out the program shall be employed as authorized by the Board of Regents.

Section 2. *Notwithstanding the provisions of section 11.611, Florida Statutes, the Sundown Act, or section 1 of chapter 82-46, Laws of Florida, section 2 of chapter 83-265, Laws of Florida, and section 6 of chapter 84-94, Laws of Florida, subsection (5) of section 381.503, Florida Statutes, shall not stand repealed effective October 1, 1991, as scheduled by such laws, but this subsection, as amended by this act, is revived and readopted.*

Section 3. *Subsection (5) of section 381.503, Florida Statutes, is repealed effective October 1, 2001, and shall be reviewed by the Legislature prior to that date pursuant to the Sundown Act, section 11.611, Florida Statutes.*

Section 4. This act shall take effect upon becoming a law.

Senator Walker moved the following amendment which was adopted:

Senate Amendment 1 to House Amendment 1—On page 1, lines 17-31, and on page 2, lines 1-29, strike all of said lines and insert:

(a) There is established the Community Hospital Education Council, hereinafter referred to as the council, which shall consist of *eleven* ~~nine~~ members, as follows:

1. Seven members must be program directors of accredited graduate medical education programs or practicing physicians who have faculty appointments in accredited graduate medical education programs. Five of these members must be board certified or board eligible in family practice, internal medicine, pediatrics, emergency medicine, and psychiatry, respectively, and licensed pursuant to chapter 458. No more than one of these members may be appointed from any one specialty. One member must be licensed pursuant to chapter 459.

~~1. Three members must be program directors of accredited medical education in approved community hospital medical education programs;~~

~~2. Two members must be from private practice and serve as faculty members of approved community hospital education programs, one of whom must be licensed pursuant to chapter 458 and the other of whom must be licensed pursuant to chapter 459;~~

2.~~3.~~ One member must be a representative of the administration of a hospital with an approved community hospital medical education program;

3.~~4.~~ One member must be the dean of a medical school in this state; and

4.~~5.~~ Two members must be consumer representatives.

All of the members shall be appointed by the Governor for terms of 4 years each.

(b) The member serving as chairman, the member licensed pursuant to chapter 459, and the members appointed pursuant to subparagraphs (a)2., 3., and 4. who are serving on October 1, 1991, shall continue to serve until the expiration of the terms for which they were appointed. The terms of the remaining three members shall expire September 30, 1991. On or before October 1, 1991, the Governor shall appoint five members to satisfy the representative requirements of subparagraph (a)1.

On motion by Senator Walker, the Senate concurred in the House amendment as amended and the House was requested to concur in the Senate amendment to the House amendment.

CS for SB 410 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36 Nays—None

RECONSIDERATION

On motion by Senator Walker, the Senate reconsidered the vote by which **CS for SB 410** passed as amended this day.

On motion by Senator Walker, the Senate reconsidered the vote by which the Senate concurred in **House Amendment 1** as amended.

On motion by Senator Walker, the Senate reconsidered the vote by which **Senate Amendment 1 to House Amendment 1** was adopted.

Senator Walker moved the following amendment to **Senate Amendment 1 to House Amendment 1** which was adopted:

Senate Amendment 1A—On page 1, strike all of lines 18-20 and insert: *education programs. Six of these members must be board certified or board eligible in family practice, internal medicine, pediatrics, emergency medicine, obstetrics-gynecology and psychiatry,*

Senate Amendment 1 to House Amendment 1 as amended was adopted.

On motion by Senator Walker, the Senate concurred in the House amendment as amended and the House was requested to concur in the Senate amendment to the House amendment.

CS for SB 410 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—38 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 448 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 448—A bill to be entitled An act relating to state government; repealing ss. 1, 2, 3, 4, 5, 6, 7, chapter 90-110, Laws of Florida, and amending ss. 216.023, 11.45, 215.20, 215.22, F.S.; repealing the Agency Budget Sunset Act under which agencies of state government were subject to periodic review in order to determine whether their programs and activities remained justifiable; providing for certain audits by the Auditor General; prescribing duties of certain legislative committees; providing an effective date.

House Amendment 1—On page 1, strike everything after the enacting clause and insert:

Section 1. Subsection (3) of section 11.45, Florida Statues, 1990 Supplement, is amended to read:

11.45 Definitions; duties; audits; reports.—

(3)(a)1. The Auditor General shall annually make financial audits of the accounts and records of all state agencies, as defined in this section, of all district school boards, and of all district boards of trustees of community colleges. Nothing herein shall limit the Auditor General's discretionary authority to conduct performance audits of these governmental entities as authorized in subparagraph 2. Nothing in this section shall be construed as prohibiting a district school board from selecting an independent auditor to perform a financial audit as defined in paragraph (1)(b) notwithstanding the notification provisions of this section.

2. The Auditor General may at any time make financial audits and performance audits of the accounts and records of all governmental entities created pursuant to law. The audits referred to in this subparagraph shall be made whenever determined by the Auditor General, whenever directed by the Legislative Auditing Committee, or whenever otherwise required by law or concurrent resolution. District school boards and expressway and bridge authorities may require that the annual financial audit of its accounts and records be completed within 12 months after the end of its fiscal year. In the event that the Auditor General may not be able to meet that requirement, the Auditor General shall notify the school board or the expressway and bridge authority pursuant to subparagraph 4.

3.a. The Auditor General shall complete a performance audit of each new major program and each major modification to an existing program specifically identified in the General Appropriations Act, and any new major program or major modification to an existing program which

becomes law but which is not specifically identified in the General Appropriations Act, within 3 years after the date when such program or modification becomes law, unless such program or modification has been subject during the 3-year period to an evaluation and review pursuant to ss. 11.513 and 216.0165. The chairmen of the appropriations committees and the appropriate substantive committees of the Senate and the House of Representatives shall provide the Legislative Auditing Committee with a list of the new major programs and major modifications to existing programs provided for in the General Appropriations Act or any other act within 10 days after the General Appropriations Act or the other act becomes law. The Legislative Auditing Committee shall arrange the lists of programs and modifications in order of priority before directing the Auditor General to conduct the performance audits. If the Auditor General conducts a preliminary review of a program or modification and determines that a performance audit is unnecessary, the Auditor General shall submit a letter stating the reasons why such audit is unnecessary to the Legislative Auditing Committee for its review and approval.

b. In addition to any other audits performed under subparagraph 2. and this subparagraph, the Auditor General shall perform an evaluation of the implementation of the recommendations prepared for each agency that has been reviewed under the provisions of s. 216.0165. Such evaluation must begin no later than 2 years after the beginning of the fiscal year that next follows the submission of the budget requests submitted pursuant to s. 216.023(7). The Auditor General shall maintain a schedule of performance audits of state programs sufficient to audit all major state programs within a 10-year period, taking into consideration the schedule established according to s. 216.0165(2) or the schedule determined by the Legislative Auditing Committee pursuant to s. 216.0165(3), unless directed otherwise by the Legislative Auditing Committee.

4. If by July 1 in any fiscal year a district school board or local governmental entity has not been notified that a financial audit for that fiscal year will be performed by the Auditor General pursuant to subparagraph 2., each municipality with either revenues or expenditures of more than $100,000, each special district with either revenues or expenditures of more than $25,000, each special district issuing, or which has outstanding, bonds with face value greater than $500,000 with an original maturity date in excess of 1 year from the time of issuance, and each county agency shall, and each district school board may, require that an annual financial audit of its accounts and records be completed, within 12 months after the end of its respective fiscal year, by an independent certified public accountant retained by it and paid from its public funds. A management letter shall be prepared and included as a part of each financial audit report. The county audit shall be one document which shall include a separate audit of each county agency. The county audit shall be a single report. The governing body of a county shall be responsible for selecting an independent certified public accountant to audit the county agencies of the county according to the following procedure:

a. In each noncharter county, an auditor selection committee shall be established, consisting of the county officers elected pursuant to s. 1(d), Art. VIII, State Constitution, and one member of the board of county commissioners or its designee.

b. The committee shall publicly announce, in a uniform and consistent manner, each occasion when auditing services are required to be purchased. Public notice shall include a general description of the audit and shall indicate how interested certified public accountants can apply for consideration.

c. The committee shall encourage firms engaged in the lawful practice of public accounting who desire to provide professional services to submit annually a statement of qualifications and performance data.

d. Any certified public accountant desiring to provide auditing services must first be qualified pursuant to law. The committee shall make a finding that the firm or individual to be employed is fully qualified to render the required services. Among the factors to be considered in making this finding are the capabilities, adequacy of personnel, past record, and experience of the firm or individual.

e. The committee shall adopt procedures for the evaluation of professional services, including, but not limited to, capabilities, adequacy of personnel, past record, experience, and such other factors as may be determined by the committee to be applicable to its particular requirements.

f. The public shall not be excluded from the proceedings under this subparagraph.

g. The committee shall evaluate current statements of qualifications and performance data on file with the committee, together with those that may be submitted by other firms regarding the proposed audit, and shall conduct discussions with, and may require public presentations by, no fewer than three firms regarding their qualifications, approach to the audit, and ability to furnish the required services.

h. The committee shall select no fewer than three firms deemed to be the most highly qualified to perform the required services after considering such factors as the ability of professional personnel; past performance; willingness to meet time requirements; location; recent, current, and projected workloads of the firms; and the volume of work previously awarded to the firm by the agency, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms. If fewer than three firms desire to perform the services, the committee shall recommend such firms as it determines to be qualified.

i. Nothing in this subparagraph shall be construed to prohibit a contract for a period in excess of 1 year.

j. If the board of county commissioners receives more than one proposal for the same engagement, the board may rank, in order of preference, the firms to perform the engagement. The firm ranked first may then negotiate a contract with the board giving, among other things, a basis of its fee for that engagement. Should the board be unable to negotiate a satisfactory contract with that firm, negotiations with that firm shall be formally terminated, and the board shall then undertake negotiations with the second-ranked firm. Failing accord with the second-ranked firm, negotiations shall then be terminated with that firm and undertaken with the third-ranked firm. Negotiations with the other ranked firms shall be undertaken in the same manner. The board, in negotiating with firms, may reopen formal negotiations with any one of the three top-ranked firms, but it may not negotiate with more than one firm at a time. The board shall also negotiate on the scope and quality of services. In making such determination, the board shall conduct a detailed analysis of the cost of the professional services required in addition to considering their scope and complexity. For contracts over $50,000, the board shall require the firm receiving the award to execute a truth-in-negotiation certificate stating that the rates of compensation and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Such certificate shall also contain a description and disclosure of any understanding that places a limit on current or future years' audit contract fees, including any arrangements under which fixed limits on fees will not be subject to reconsideration if unexpected accounting or auditing issues are encountered. Such certificate shall also contain a description of any services rendered by the certified public accountant or firm of certified public accountants at rates or terms that are not customary. Any auditing service contract under which such a certificate is required shall contain a provision that the original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the board determines the contract price was increased due to inaccurate or incomplete factual unit costs. All such contract adjustments shall be made within 1 year following the end of the contract. This sub-subparagraph shall apply to audits covering the 1982-1983 fiscal year, and the procedure in this sub-subparagraph may be used by any county for subsequent audits. If there is a conflict between this sub-subparagraph and s. 473.317, this sub-subparagraph shall prevail.

k. Should the board be unable to negotiate a satisfactory contract with any of the selected firms, the committee shall select additional firms, and the board shall continue negotiations in accordance with this subsection until an agreement is reached.

l. At the conclusion of the audit field work, the independent certified public accountant shall discuss with the head of each county agency and the chairman of the board of county commissioners or his designee or with the chairman of the district school board or his designee, as appropriate, all of the auditor's comments pertaining to that agency which will be included in the audit report containing the auditor's comments for the areas within their responsibility. If the officer is not available to discuss the auditor's comments, their discussion is presumed when the comments are delivered in writing to his office.

m. The officer's written statement of explanation or rebuttal concerning the auditor's comments, including corrective action to be taken, shall be filed with the governing body of the county and with the Auditor General within 30 days after the delivery of the financial audit report.

n. Each district school board or expressway and bridge authority that elects to utilize an independent audit shall select an auditor by using the same selection procedure as outlined under sub-subparagraphs b.-k. The district school board or expressway and bridge authority selection committee shall be set by policy of that respective district school board or expressway and bridge authority. The district school board reports shall be presented to the superintendent of schools and the chairman of the school board in that district and filed with the district school board and the Auditor General in conformity with sub-subparagraphs l. and m., and expressway and bridge authority reports shall be presented to the chairman of the expressway and bridge authority and the Auditor General.

o. The Auditor General, in consultation with the Board of Accountancy, shall adopt rules for the form and conduct of all local governmental entity audits. Such rules shall include, but not be limited to, requirements for the reporting of information necessary to carry out the purposes of the Local Government Financial Emergency and Accountability Act, chapter 79-183, Laws of Florida.

The procedures under sub-subparagraphs a.-k. do not apply to audit agreements or contracts entered into before July 1, 1983.

5. Any financial audit report required under subparagraph 4. shall be submitted to the Auditor General within 30 days after completion of the audit but no later than 12 months after the end of the fiscal year of the governmental entity and district school board. If the Auditor General does not receive the financial audit within such period, he shall notify the Legislative Auditing Committee that such governmental entity has not complied with this subparagraph. Following notification of failure to submit the required audit, a hearing shall be scheduled by the committee for the purpose of receiving testimony addressing the failure of local governmental entities to comply with the reporting requirements of this section. After the hearing, the committee shall determine which local governmental entities will be subjected to further state action. If it finds that one or more local governmental entities should be subjected to further state action, the committee shall:

a. In the case of a local governmental entity, request the Department of Revenue and the Department of Banking and Finance to withhold any funds payable to such governmental entity until the required financial audit is received by the Auditor General.

b. In the case of a special district, notify the Department of Community Affairs that the special district has failed to provide the required audits. Upon receipt of notification, the Department of Community Affairs shall proceed pursuant to ss. 189.421 and 189.422.

6. The Auditor General, in consultation with the Board of Accountancy, shall review all audits made pursuant to this paragraph by an independent certified public accountant.

7. In conducting a performance audit of any agency, the Auditor General shall use the Agency Functional Plan of the agency as the primary measure of the agency's performance.

Section 2. Subsection (8) is added to section 20.055, Florida Statutes, 1990 Supplement, to read:

20.055 Agency chief internal auditors.—

(8) The chief internal auditor shall monitor the implementation of the agency's response to any performance audit of the agency conducted by the Auditor General pursuant to s. 11.45(3). No later than 210 days after the Auditor General publishes a report of his performance audit of the agency, the chief internal auditor shall report, through the agency head, to the Joint Legislative Auditing Committee on the implementation by the agency of any recommendations contained in the Auditor General's report.

Section 3. Section 216.176, Florida Statutes, is created to read:

216.176 Truth in budgeting.—The Governor's recommended budget shall contain a "truth in budgeting" statement which shall display in summary form all currently estimated fees, taxes, revenues, or other income which need to be raised to fund the proposed budget. The "truth in budgeting" statement for the General Appropriations Act shall be completed no later than 30 days after the submission of the Governor's veto message.

Section 4. Subsection (3) of section 216.136, Florida Statutes, 1990 Supplement, is amended to read:

216.136 Consensus estimating conferences; duties and principals.—

(3) REVENUE ESTIMATING CONFERENCE.—

(a) Duties.—The Revenue Estimating Conference shall develop such official information with respect to anticipated state and local government revenues as the conference determines is needed for the state planning and budgeting system. *Any principal may request the conference to review and estimate revenues for any trust fund.*

(b) Principals.—The Executive Office of the Governor, the director of the Division of Economic and Demographic Research of the Joint Legislative Management Committee, and professional staff of the Senate and House of Representatives who have forecasting expertise, or their designees, are the principals of the Revenue Estimating Conference. The responsibility of presiding over sessions of the conference shall be rotated among the principals.

Section 5. Subsection (7) of section 186.003, Florida Statutes, is amended to read:

186.003 Definitions.—As used in ss. 186.001-186.031 and 186.801-186.911, the term:

(7) "State agency functional plan" means the *statement of priority directions* ~~agency program policies and objectives and administrative directions~~ contained within the plan *that an agency intends to take to carry out its mission within the context of the state comprehensive plan and any other statutory mandate or authorization given to the agency,* prepared pursuant to s. 186.021 *and s. 186.022.*

Section 6. Section 186.021, Florida Statutes, is amended to read:

186.021 State agency functional plans.—

(1) A state agency functional plan shall *be a statement of and identify an agency's strategies and priorities for achieving the state comprehensive plan and any other statutory mandate or authorization given to the agency.* ~~contain, at a minimum, a statement of the policies guiding the programs and functions of the agency and shall specify those objectives against which there shall be evaluated the achievement by the agency of its policies and the goals and policies for the state comprehensive plan. A state agency functional plan shall also identify specific agency programs which support and further the goals and policies of the growth management portion of the state comprehensive plan.~~ Each state agency functional plan shall identify infrastructure and capital improvement needs associated with the agency programs, *and shall specify those objectives against which the achievement by the agency of its goals and the achievement of the goals and policies of the state comprehensive plan shall be measured.*

(2) Each state agency functional plan shall be developed with a 5 year outlook and shall provide the strategic framework by which an agency's legislative budget request and the agency strategic information resource management plan is developed. An agency's budget and its strategic information resource management plan shall be designed to further the agency's functional plan.

(3)~~(2)~~ All amendments, revisions, or updates to a state agency functional plan shall be prepared in the same manner as the original and shall be prepared as needed because of changes in the state comprehensive plan or changes in the statutory authority and responsibility of the agency.

(4)~~(3)~~ The Department of Environmental Regulation, with regard to the plan required by s. 373.036, *and* the state land planning agency, with regard to the plan defined in s. 380.031(17), and the Information Resource Commission, with regard to the plan defined in s. 282.3061, shall prepare such state agency functional plans no later than 6 months after the adoption of *revisions to* the state comprehensive plan.

Section 7. Section 186.022, Florida Statutes, is amended to read:

186.022 State agency functional plans; *preparation, form, and review* ~~consistency with state comprehensive plan.~~—

(1) *Beginning in 1992, three months before submitting its final legislative budget request pursuant to s. 216.023(1),* ~~Within 1 year of the adoption of the state comprehensive plan, and by November 1 of each odd-numbered year thereafter~~, each state agency, except as provided in s. 186.021, shall prepare and submit its agency functional plan to the Executive Office of the Governor. Prior to the submission of the agency functional plans to the Governor, each agency shall hold public workshops on the proposed agency functional plan, and shall allow at least a

21-day period for public comment. Adequate public notice shall be assured by publication of notice of hearing and comment period in the Florida Administrative Weekly.

~~(2) The Executive Office of the Governor shall review the proposed state agency functional plans for consistency with the state plan, and shall, within 60 days, return a proposed agency functional plan to the agency, together with any proposed revisions.~~

(2)~~(3)~~ Each agency functional plan shall be in a form and manner prescribed in *written* instructions prepared by the Executive Office of the Governor after consultation with the President of the Senate and the Speaker of the House of Representatives. Each agency functional plan shall identify ~~the financial resources necessary to implement the provisions of the plan, and shall identify~~ the specific legislative authority necessary to implement the ~~elements of the proposed functional~~ plan. An agency may only implement those portions of its functional plan that are consistent with existing statutory or constitutional authority, and for which funding, if needed, is available consistent with the provisions of chapter 216. *An agency's* ~~Financial resources necessary to implement the policies and goals of the state comprehensive plan shall be clearly identified and coordinated between each agency functional plan and the~~ budget requests and recommendations prescribed in s. 216.023(1) *shall identify the financial resources necessary to implement the provisions of the agency's functional plan.*

(3) The Executive Office of the Governor shall review each state agency functional plan for consistency with the state comprehensive plan and any other requirements specified in the written instructions. Within 60 days after receiving an agency's functional plan, the executive Office of the Governor shall return the plan to the agency together with any proposed revisions.

(4) The state agency shall, within 30 days of the return of its ~~proposed~~ state agency functional plan, incorporate all revisions recommended by the Governor, or shall petition the Administration Commission to resolve any disputes regarding the consistency of the state agency functional plan or the revisions recommended by the Governor with the state comprehensive plan *or written instructions*. The Administration Commission shall resolve any disputes within *60* ~~45~~ days *after* ~~of~~ the petition.

(5) Any differences between state agencies regarding the programs, policies, or functional plans of such agencies shall be mediated by the Governor.

(6) Each agency shall transmit copies of its functional plan and all public comments on its plan to the President of the Senate and the Speaker of the House of Representatives not later than 30 days prior to the next regular session of the Legislature.

(7) Agency functional plans developed pursuant to this chapter are not rules and therefore are not subject to the provisions of chapter 120.

Section 8. *(1) The Administration Commission shall adopt for each state agency, for purposes of such agency's budget, performance measures which shall include, at a minimum, the performance measures from the agency's functional plan. In addition to the requirements of s. 216.023, Florida Statutes, each state agency shall include within its legislative budget request, and the approved budget for each state agency shall contain, performance measures adopted for such agency by the Administration Commission.*

(2) Each state agency shall adopt an annual productivity plan, containing standards and measures, by which the agency shall assess the quality and cost-effectiveness of the agency's operations and measure those factors which affect productivity and are reasonably within the control of the agency.

(3) In addition to the provisions of s. 20.055, Florida Statutes, the chief internal auditor of each agency shall review the agency's proposed annual productivity plan and report to the Administration Commission any recommendations for modifying the plan and any recomendations concerning a failure by the agency to meet the standards and measures contained in the plan.

(4) In addition to the provisions of s. 216.163(3), Florida Statutes, each year the Governor shall provide to the Legislature as part of his recommended budget a report evaluating the performance of each state agency under its annual productivity plan during the preceding fiscal year, such evaluation to be made under standards and measures of productivity adopted by the Legislature with respect to the State Comprehensive Plan, the agency's functional plan, and the major goals, responsibilities, and functions of the agency. The report shall contain data and an explanation of each agency's performance under its annual productivity plan based upon uniform program evaluation criteria.

(5) The annual productivity plan of each agency shall include, but not be limited to, the following:

(a) A set of productivity and quality goals and objectives.

(b) Productivity and quality standards and measures relating to agency goals and programs.

(c) A measurement system to hold managers and employees accountable for measurable agency activity and program results.

(d) Procedures whereby managers and employees jointly develop and implement productivity and quality improvement goals.

(e) Provisions for rewards, sanctions, and recognition based upon productivity and quality.

(f) A mandatory training program for all employees in methods for improving productivity and quality.

(g) A means of using technology to improve agency operations and services.

Section 9. This act shall take effect upon becoming a law.

House Amendment 2—On page 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to state government; amending s. 11.45, F.S.; requiring the Auditor General to use agency functional plans in conducting performance audits of agencies; amending s. 20.055, F.S.; providing duties of agency internal auditors; creating s. 216.176, F.S.; requiring truth in budgeting; amending s. 216.136, F.S.; providing duties of the revenue estimating conference; amending s. 186.003, F.S.; redefining state agency functional plan; amending s. 186.021, F.S.; revising the required contents of state agency functional plans; amending s. 186.022, F.S.; providing for preparation, form, and review of state agency functional plans; requiring the Administration Commission to adopt performance measures for state agencies; requiring each state agency to adopt an annual performance productivity plan; providing duties of agency chief internal auditors; requiring the Governor to report on agency productivity; specifying the contents of productivity plans; providing an effective date.

On motions by Senator Bruner, the Senate refused to concur in the House amendments and the House was requested to recede. The action of the Senate was certified to the House.

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 544 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 544—A bill to be entitled An act relating to building designations; designating a building on the University Park campus of the Florida International University as the "Charles E. Perry Building"; providing an effective date.

House Amendment 1—On page 2, between lines 2 and 3, insert:

Section 2. The new Florida Marine Patrol Facility being constructed on Thomas Drive in Panama City is hereby designated as the "Captain Gordon E. McCall Building."

(Renumber subsequent section.)

House Amendment 2—In title, on page 1, line 5, after the semicolon (;) insert: designating a building in Panama City as the "Captain Gordon E. McCall Building";

On motions by Senator Diaz-Balart, the Senate concurred in the House amendments.

SB 544 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—37 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 942 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 942—A bill to be entitled An act relating to public records and meetings; reenacting and amending s. 455.217, F.S.; clarifying that certain provisions relating to examination information of the Department of Professional Regulation do not create exemptions from the public records law; continuing the exemptions from the public meetings requirements and the public records requirements for meetings and records of meetings held by the Department of Professional Regulation, notwithstanding the Open Government Sunset Review Act; reenacting and amending s. 455.225(4), (10), F.S.; continuing the exemption from the public record requirements of ch. 119, F.S., and the public meeting requirements of ch. 286, F.S., for the proceedings of probable cause panels of professional regulation boards and complaints against professionals filed with the Department of Professional Regulation; providing for future legislative review of these exemptions pursuant to the Open Government Sunset Review Act; reenacting and amending s. 455.229, F.S.; providing that certain information filed by licensure applicants with the department and applicant examination questions and answers and examination grades remain exempt from the public record requirements of ch. 119, F.S.; providing for future legislative review of these exemptions pursuant to the Open Government Sunset Review Act; revising an examination review procedure; reenacting and amending s. 455.232, F.S., relating to confidential information in the hands of persons under contract with the department or a board therein; clarifying that the provision is not an exemption from s. 119.07(1), F.S.; reenacting and amending s. 455.241(2), (3), F.S.; providing an exemption for patient records maintained by the department from the public record requirements of ch. 119, F.S.; providing for future legislative review of these exemptions pursuant to the Open Government Sunset Review Act; reenacting and amending s. 455.247(2), F.S.; providing that reports on professional liability claims and actions against certain health care practitioners and filed with the department remain exempt from the public record requirements of ch. 119, F.S.; providing for future legislative review of this exemption pursuant to the Open Government Sunset Review Act; reenacting and amending s. 458.3315(4)(e), (6)(a), F.S.; providing an exemption from the public record requirements of ch. 119, F.S., for information obtained by the Department of Professional Regulation about a physician participating in the impaired practitioners treatment program; providing for future legislative review of this exemption pursuant to the Open Government Sunset Review Act; reenacting and amending s. 458.337(3), F.S.; continuing the exemption, with modifications, from the public record requirements of ch. 119, F.S., for reports of disciplinary actions against physicians by medical organizations and hospitals filed with the department; providing for future legislative review of this exemption pursuant to the Open Government Sunset Review Act; reenacting and amending s. 458.339(3), F.S.; providing an exemption from the public record requirements of ch. 119, F.S., for medical reports concerning the physical or mental condition of physicians which are filed with the department; providing for future legislative review of this exemption pursuant to the Open Government Sunset Review Act; reenacting and amending s. 458.341, F.S.; providing an exemption from the public record requirements of ch. 119, F.S., for certain patient records of physicians obtained by the department pursuant to investigations for violations related to the inappropriate or excessive prescribing of controlled substances; providing for future legislative review of this exemption pursuant to the Open Government Sunset Review Act; reenacting and amending s. 459.0155(4)(e), (7)(a), F.S.; providing an exemption from the public record requirements of ch. 119, F.S., for information obtained by the Department of Professional Regulation about an osteopathic physician participating in the impaired practitioners treatment program; providing for future legislative review of this exemption pursuant to the Open Government Sunset Review Act; reenacting and amending s. 459.016(3), F.S.; continuing the exemption, with modifications, from the public record requirements of ch. 119, F.S., for reports of disciplinary actions by medical organizations and hospitals filed with the department; providing for future legislative review of this exemption pursuant to the Open Government Sunset Review Act; reenacting and amending s. 459.017(3), F.S.; providing an exemption from the public record requirements of ch. 119, F.S., for medical reports concerning the physical or mental condition of osteopathic physicians which are filed with the department; providing for future legislative review of this exemption pursuant to the Open Government Sunset Review Act; reenacting and amending s. 459.018, F.S.; providing an exemption from the public record requirements of ch. 119, F.S., for certain patient records of an osteopathic physician obtained by the department pursuant to an investigation for a violation related to the inappropriate or excessive prescribing of controlled substances; providing for future legislative review of this exemption pursuant to the Open Government Sunset Review Act; reenacting and amending s. 460.4104(6), (7), F.S.; providing an exemption from the public record requirements of ch. 119, F.S., for information contained in a report or summary of a peer review committee which may identify a patient and any patient records used by the Department of Professional Regulation in peer review of or disciplinary proceedings against a chiropractic physician; providing for future legislative review of this exemption pursuant to the Open Government Sunset Review Act; reenacting and amending s. 461.0132(4)(a), (c), (6)(a), F.S.; requiring podiatrists participating in the impaired practitioners treatment program to authorize the release of certain medical records; providing an exemption from the public record requirements of ch. 119, F.S., for information obtained by the Department of Professional Regulation about a podiatrist participating in the impaired practitioners treatment program; providing for future legislative review of this exemption pursuant to the Open Government Sunset Review Act; reenacting and amending s. 463.0165(4)(e), (6)(a), F.S.; providing an exemption from the public record requirements of ch. 119, F.S., for information obtained by the Department of Professional Regulation about an optometrist participating in the impaired practitioners treatment program; providing for future legislative review of this exemption pursuant to the Open Government Sunset Review Act; reenacting and amending s. 464.0185(4)(a), (e), (6)(a), F.S.; requiring nurses participating in the impaired practitioners treatment program to authorize the release of certain medical records; providing an exemption from the public record requirements of ch. 119, F.S., for information obtained by the department about a nurse participating in the impaired practitioners treatment program; providing for future legislative review of this exemption pursuant to the Open Government Sunset Review Act; reenacting and amending s. 465.0165(4)(a), (e), (6)(a), F.S.; requiring pharmacists participating in the impaired practitioners treatment program to authorize the release of certain medical records; providing an exemption from the public record requirements of ch. 119, F.S., for information obtained by the Department of Professional Regulation about a pharmacist participating in the impaired practitioners treatment program; providing for future legislative review of this exemption pursuant to the Open Government Sunset Review Act; reenacting and amending s. 465.186(1), F.S., relating to the formulary of medicinal drugs which may be made available to the public upon the order of a pharmacist; revising that provision to cover drug products and dispensing procedures; revising an obsolete reference to the Board of Medical Examiners; clarifying that the provision is not an exemption from s. 119.07(1), F.S.; reenacting and amending s. 466.022(2), (3), F.S., relating to dentistry peer review committees; clarifying that a provision relating to discovery and admissibility of information in such a committee's records is not an exemption from the public record requirements of ch. 119, F.S.; providing an exemption from the public record requirements of ch. 119, F.S., and continuing the exemption from the public meetings requirements of ch. 286, F.S., for dentistry peer review information obtained by the Department of Professional Regulation; providing for future legislative review of these exemptions pursuant to the Open Government Sunset Review Act; reenacting and amending s. 466.0275(2), F.S.; providing an exemption from the public record requirements of ch. 119, F.S., for medical reports concerning the physical or mental condition of dentists which are filed with the department; providing for future legislative review of this exemption pursuant to the Open Government Sunset Review Act; reenacting and amending s. 466.0283(4)(e), (6)(a), F.S.; providing an exemption from the public record requirements of ch. 119, F.S., for information obtained by the department about a dentist participating in the impaired practitioners treatment program; providing for future legislative review of this exemption pursuant to the Open Government Sunset Review Act; reenacting and amending s. 473.316(1), (2), (3), F.S., relating to privileged communications between an accountant and client; clarifying that this provision is not an exemption from s. 119.07(1), F.S.; reenacting and amending s. 474.2141(4)(e), (6)(a), F.S.; providing an exemption from the public record requirements of ch. 119, F.S., for information obtained by the Department of Professional Regulation about a veterinarian participating in the impaired practitioners treatment program; providing for future legislative review of this exemption pursuant to the Open Government Sunset Review Act; reenacting and amending s. 474.2185(3), F.S.; providing an exemption from the public record requirements of ch. 119, F.S., for medical reports concerning the physical or mental condition of veterinarians which are filed with the department; providing for future

legislative review of this exemption pursuant to the Open Government Sunset Review Act; reenacting and amending s. 490.0095(4)(e), (6)(a), F.S.; providing an exemption from the public record requirements of ch. 119, F.S., for information obtained by the Department of Professional Regulation about a psychologist participating in the impaired practitioners treatment program; providing for future legislative review of this exemption pursuant to the Open Government Sunset Review Act; repealing s. 455.230, F.S., relating to discovery of professional examination questions and answers; repealing s. 476.224, F.S., relating to complaints against barbering licensees for violations of ch. 476, F.S., the Barbers' Act; providing an effective date.

House Amendment 1—Strike everything after the enacting clause and insert:

Section 1. Notwithstanding the October 1, 1991, repeal specified in section 119.14(3)(a), Florida Statutes, paragraph (c) of subsection (1) and subsections (2) and (4) of section 455.217, Florida Statutes, are reenacted and amended to read:

455.217 Examinations.—

(1) The Division of Examination and Licensure of the Department of Professional Regulation shall provide services for the preparation and administration of all examinations.

(c) The department shall use any national examination which is available and which is approved by the board. The name and number of a candidate may be provided to a national contractor for the limited purpose of preparing the grade tape and information to be returned to the board or department. The department may delegate to the board the duty to provide and administer the examination.

(2) The board or, when there is no board, the department shall make rules providing for reexamination of any applicants who have failed the examination. If both a written and a practical examination are given, an applicant shall be required to retake only the portion of the examination on which he failed to achieve a passing grade, if he successfully passes that portion within a reasonable time of his passing the other portion. The board or, when there is no board, the department shall make available an examination review procedure for applicants and charge an examination review fee not to exceed $75 per review. Unless prohibited or limited by rules implementing security or access guidelines of national examinations, the applicant is entitled to review his examination questions, answers, papers, grades, and grading key. An applicant may waive in writing the confidentiality of his examination grades. *These exemptions are subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

(4) ~~Notwithstanding the provisions of ss. 119.14 and 286.011,~~ Meetings and records of meetings of any member of the department or of any board or commission within the department held for the exclusive purpose of creating or reviewing licensure examination questions or proposed examination questions are *confidential and* exempt from *ss. 119.07(1) and* ~~the provisions of chapter 119 and s.~~ 286.011. However, this exemption shall not affect the right of any person to review an examination as provided in subsection (2). *These exemptions are* ~~This exemption is~~ subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 2. Notwithstanding the October 1, 1991, repeal specified in section 119.14(3)(a), Florida Statutes, subsections (4) and (10) of section 455.225, Florida Statutes, 1990 Supplement, are reenacted and amended to read:

455.225 Disciplinary proceedings.—

(4) The determination as to whether probable cause exists shall be made by majority vote of a probable cause panel of the board, or by the department, as appropriate. Each regulatory board shall provide, by rule, that the determination of probable cause shall be made by a panel of its members or by the department. The panel, if any, shall be composed of board members, but not more than one of the panel members may be a lay member. All proceedings of the panel are exempt from the provisions of s. 286.011 until probable cause has been found to exist by the panel or until the subject of the investigation waives his privilege of confidentiality. *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.* In aid of its duty to determine the existence of probable cause, the probable cause panel may make a reasonable request, and upon such request the department shall provide such additional investigative information as is necessary to the determination of probable cause. A request for additional investigative information shall be made within 15 days from the date of receipt by the probable cause panel of the investigative report of the department. The probable cause panel or the department, as may be appropriate, shall make its determination of probable cause within 30 days after receipt by it of the final investigative report of the department. The secretary may grant extensions of the 15-day and the 30-day time limits. If the probable cause panel does not find probable cause within the 30-day time limit, as may be extended, or if the probable cause panel finds no probable cause, the department may determine, within 10 days after the panel fails to determine probable cause or 10 days after the time limit has elapsed, that probable cause exists. If the probable cause panel finds that probable cause exists, it shall direct the department to send the licensee a letter of guidance or to file a formal complaint against the licensee. The department shall follow the directions of the probable cause panel regarding the filing of a formal complaint. If directed to do so, the department shall file a formal complaint against the regulated professional or subject of the investigation and prosecute that complaint pursuant to the provisions of chapter 120. However, the department may decide not to prosecute the complaint if it finds that probable cause had been improvidently found by the panel. In such cases, the department shall refer the matter to the board. The board may then file a formal complaint and prosecute the complaint pursuant to the provisions of chapter 120. The department shall also refer to the board any investigation or disciplinary proceeding not before the Division of Administrative Hearings pursuant to chapter 120 or otherwise completed by the department within 1 year of the filing of a complaint. A probable cause panel or a board may retain independent legal counsel, employ investigators, and continue the investigation as it deems necessary; all costs thereof shall be paid from the Professional Regulation Trust Fund. All proceedings of the probable cause panel shall be exempt from the provisions of s. 120.53(1)(d).

(10) The complaint and all information obtained pursuant to the investigation by the department shall be *confidential and* exempt from s. 119.07*(1)* until 10 days after probable cause has been found to exist by the probable cause panel or by the department, or until the regulated professional or subject of the investigation waives his privilege of confidentiality, whichever occurs first. Nothing in this subsection shall be construed to prohibit the department from providing such information to any law enforcement agency or to any other regulatory agency. *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Section 3. Notwithstanding the October 1, 1991, repeal specified in section 119.14(3)(a), Florida Statutes, section 455.229, Florida Statutes, 1990 Supplement, is reenacted and amended to read:

455.229 Public inspection of information required from applicants; exceptions.—

(1) All information required by the department of any applicant shall be a public record and shall be open to public inspection pursuant to s. 119.07, except financial information, examination questions, answers, papers, grades, and grading keys, which *are confidential and exempt from s. 119.07(1) and* shall not be discussed with or made accessible to anyone except members of the board, the department, and its staff who have a bona fide need to know such information. Any information supplied to the department by any other agency which is exempt from the provisions of chapter 119 or is confidential shall remain exempt or confidential pursuant to applicable law while in the custody of the department. *These exemptions are subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

(Substantial rewording of subsection (2). See s. 455.229(2), F.S., 1990 Supp., for present text.)

(2) The department shall establish by rule the procedure by which an applicant, and his attorney, may review examination questions and answers. Examination questions and answers are not subject to discovery but may be introduced into evidence and considered only in camera in any administrative proceeding under chapter 120. If an administrative hearing is held, the department shall provide challenged examination questions and answers to the hearing officer. The examination questions and answers provided at the hearing are confidential and exempt from s. 119.07(1), unless invalidated by the hearing officer. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 4. Section 455.230, Florida Statutes, as created by chapter 88-205, Laws of Florida, is hereby repealed.

Section 5. Notwithstanding the October 1, 1991, repeal specified in section 119.14(3)(a), Florida Statutes, section 455.232, Florida Statutes, is reenacted to read:

455.232 Disclosure of confidential information.—

(1) No officer, employee, or person under contract with the department, or any board therein, shall convey knowledge or information to any person who is not lawfully entitled to such knowledge or information about any public meeting or public record, which at the time such knowledge or information is conveyed is exempt from the provisions of s. 119.01, s. 119.07(1), or s. 286.011.

(2) Any person who willfully violates any provision of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and shall be removed from office, employment, or the contractual relationship.

Section 6. Notwithstanding the October 1, 1991, repeal specified in section 119.14(3)(a), Florida Statutes, subsections (2) and (3) of section 455.241, Florida Statutes, 1990 Supplement, are reenacted and amended to read:

455.241 Patient records; report or copies of records to be furnished.—

(2) Except as otherwise provided in s. 440.13(2)(c), such records shall not be furnished to, and the medical condition of a patient may not be discussed with, any person other than the patient or his legal representative or other health care providers involved in the care or treatment of the patient, except upon written authorization of the patient. However, such records may be furnished without written authorization to any person, firm, or corporation which has procured or furnished such examination or treatment with the patient's consent or when compulsory physical examination is made pursuant to Rule 1.360, Florida Rules of Civil Procedure, in which case copies of the medical records shall be furnished to both the defendant and the plaintiff. Such records may be furnished in any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice to the patient or his legal representative by the party seeking such records. Except in a medical negligence action when a health care provider is or reasonably expects to be named as a defendant, information disclosed to a health care practitioner by a patient in the course of the care and treatment of such patient is confidential and may be disclosed only to other health care providers involved in the care or treatment of the patient, or if permitted by written authorization from the patient or compelled by subpoena at a deposition, evidentiary hearing, or trial for which proper notice has been given. The Department of Professional Regulation may obtain patient records pursuant to a subpoena without written authorization from the patient if the department and the probable cause panel of the appropriate board, if any, find reasonable cause to believe that a practitioner has excessively or inappropriately prescribed any controlled substance specified in chapter 893 in violation of s. 458.331(1)(q), s. 459.015(1)(u), s. 461.013(1)(p), s. 462.14(1)(q), s. 466.028(1)(q), or s. 474.214(1)(x) or (y) or that a practitioner has practiced his profession below that level of care, skill, and treatment required as defined by s. 458.331(1)(t), s. 459.015(1)(y), s. 460.413(1)(s), s. 461.013(1)(t), s. 462.14(1)(t), s. 463.016(1)(n), s. 464.018(1)(h), s. 466.028(1)(y), or s. 474.214(1)(o); provided, however, the patient record obtained by the department pursuant to this subsection shall be used solely for the purpose of the department and board in disciplinary proceedings. The record shall otherwise be *confidential and exempt from s. 119.07(1)* ~~sealed and shall not be available to the public pursuant to the provisions of s. 119.07 or any other statute providing access to public records~~. *This exemption is subject to the Open Government Sunset Review in accordance with s. 119.14.* Nothing in this section shall be construed to limit the assertion of the psychotherapist-patient privilege under s. 90.503 in regard to records of treatment for mental or nervous disorders by a medical practitioner licensed pursuant to chapter 458 or chapter 459 who has primarily diagnosed and treated mental and nervous disorders for a period of not less than 3 years, inclusive of psychiatric residency. However, the practitioner shall release records of treatment for medical conditions even if the practitioner has also treated the patient for mental or nervous disorders. If the department has found reasonable cause under this section and the psychotherapist-patient privilege is asserted, the department may petition the circuit court for an in camera review of the records by expert medical practitioners appointed by the court to determine if the records or any part thereof are protected under the psychotherapist-patient privilege.

(3) All patient records obtained by the Department of Professional Regulation and any other documents *maintained by the department which identify* ~~identifying~~ the patient by name *are confidential and exempt from s. 119.07(1) and* shall be used solely for the purpose of the Department of Professional Regulation and the appropriate regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The records ~~shall be sealed and~~ shall not be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the Department of Professional Regulation or the appropriate regulatory board. *These exemptions are subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Section 7. Notwithstanding the October 1, 1991, repeal specified in section 119.14(3)(a), Florida Statutes, paragraph (d) of subsection (2) of section 455.247, Florida Statutes, is reenacted and amended to read:

455.247 Health care practitioners; reports on professional liability claims and actions.—

(2) Reports shall contain:

(d) The name and address of the injured person. This information *is* ~~shall be privileged and~~ confidential *and exempt from s. 119.07(1)* and shall not be disclosed by the department without the injured person's consent. This information may be used by the department for purposes of identifying multiple or duplicate claims arising out of the same occurrence. *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Section 8. Notwithstanding the October 1, 1991, repeal specified in section 119.14(3)(a), Florida Statutes, paragraph (e) of subsection (4) and paragraph (a) of subsection (6) of section 458.3315, Florida Statutes, are reenacted and amended to read:

458.3315 Treatment programs for impaired practitioners.—

(4)

(e) The probable cause panel shall work directly with the consultant, and all information concerning a practitioner obtained from the consultant by the panel shall remain confidential *and exempt from s. 119.07(1)*, subject to the provisions of subsections (6) and (7). *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

(6)(a) An approved treatment provider shall, upon request, disclose to the consultant all information in its possession regarding the issue of a practitioner's impairment and his participation in the treatment program. ~~Notwithstanding the provisions of s. 119.14,~~ All information obtained by the consultant and the department pursuant to this section is *confidential and* exempt from ~~disclosure under~~ s. 119.07*(1)* ~~and shall be held confidential~~, subject to the provisions of this subsection and subsection (7). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Failure to provide such information to the consultant is grounds for withdrawal of approval of such program or provider.

Section 9. Notwithstanding the October 1, 1991, repeal specified in section 119.14(3)(a), Florida Statutes, subsection (3) of section 458.337, Florida Statutes, is reenacted and amended to read:

458.337 Reports of disciplinary actions by medical organizations and hospitals.—

(3) Any organization taking action as set forth in this section shall, upon department subpoena, provide copies of the records concerning the action to the department. However, those records shall be used solely for the purpose of the department and the board in disciplinary proceedings. The records shall otherwise be *confidential and exempt from s. 119.07(1). These* ~~sealed and shall not be available to the public pursuant to the provisions of s. 119.07 or any other statute providing access to public records, and such~~ records shall not be subject to discovery or introduction into evidence in any administrative or civil action. *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Section 10. Notwithstanding the October 1, 1991, repeal specified in section 119.14(3)(a), Florida Statutes, subsection (3) of section 458.339, Florida Statutes, is reenacted and amended to read:

458.339 Physician's consent; handwriting samples; mental or physical examinations.—Every physician who accepts a license to practice medicine in this state shall, by so accepting the license or by making and filing a renewal of licensure to practice in this state, be deemed to have given his consent, during a lawful investigation of a complaint, to the following:

(3) To waive any objection to the admissibility of the reports as constituting privileged communications. Such material *maintained by the department* shall remain confidential *and exempt from s. 119.07(1)* ~~in the hands of the department~~ until probable cause is found and an administrative complaint issued. *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Section 11. Notwithstanding the October 1, 1991, repeal specified in section 119.14(3)(a), Florida Statutes, section 458.341, Florida Statutes, is reenacted and amended to read:

458.341 Search warrants for certain violations.—When the department has reason to believe that violations of s. 458.331(1)(q) or s. 458.331(1)(r) have occurred or are occurring, its agents or other duly authorized persons may search a physician's place of practice at reasonable hours for purposes of securing such evidence as may be needed for prosecution. Such evidence shall not include any medical records of patients unless pursuant to the patients' written consent. Notwithstanding the consent of the patient, such records *maintained by the department are* ~~shall be treated as~~ confidential and *exempt from s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14* ~~shall not be transferred to any other agency~~. This section shall not limit the psychotherapist-patient privileges of s. 90.503. Prior to a search, the department shall secure a search warrant from any judge authorized by law to issue them. The search warrant shall be issued upon probable cause, supported by oath or affirmation particularly describing the things to be seized. The application for the warrant shall be sworn to and subscribed, and the judge may require further testimony from witnesses, supporting affidavits, or depositions in writing to support the application. The application and supporting information, if required, must set forth the facts tending to establish the grounds of the application or probable cause that they exist. If the judge is satisfied that probable cause exists, he shall issue a search warrant signed by him with his name of office to any agent or other person duly authorized by the department to execute process, commanding the agent or person to search the place described in the warrant for the property specified. The search warrant shall be served only by the agent or person mentioned in it and by no other person except an aide of the agent or person when such agent or person is present and acting in its execution.

Section 12. Notwithstanding the October 1, 1991, repeal specified in section 119.14(3)(a), Florida Statutes, paragraph (e) of subsection (4) and paragraph (a) of subsection (7) of section 459.0155, Florida Statutes, are reenacted and amended to read:

459.0155 Treatment programs for impaired practitioners.—

(4)

(e) The probable cause panel shall work directly with the consultant, and all information concerning a practitioner obtained from the consultant by the panel shall remain confidential *and exempt from s. 119.07(1)*, subject to the provisions of subsections (7) and (8). *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

(7)(a) An approved treatment provider shall, upon request, disclose to the consultant all information in its possession regarding the issue of a practitioner's impairment and his participation in the treatment program. ~~Notwithstanding s. 119.14,~~ All information obtained by the consultant and the department pursuant to this section is *confidential and* exempt from ~~disclosure under~~ s. 119.07*(1)* ~~and shall be held confidential~~, subject to the provisions of this subsection and subsection (8). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Failure to provide such information to the consultant is grounds for withdrawal of approval of such program or provider.

Section 13. Notwithstanding the October 1, 1991, repeal specified in section 119.14(3)(a), Florida Statutes, subsection (3) of section 459.016, Florida Statutes, is reenacted and amended to read:

459.016 Reports of disciplinary actions by medical organizations.—

(3) Any organization taking action as set forth in this section shall, upon department subpoena, provide copies of the records concerning the action to the department. However, those records shall be used solely for the purpose of the department and the board in disciplinary proceedings. The records shall otherwise be *confidential and exempt from s. 119.07(1). These* ~~sealed and shall not be available to the public pursuant to the provisions of s. 119.07 or any other statute providing access to public records, and such~~ records shall not be subject to discovery or introduction into evidence in any administrative or civil action. *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Section 14. Notwithstanding the October 1, 1991, repeal specified in section 119.14(3)(a), Florida Statutes, subsection (3) of section 459.017, Florida Statutes, is reenacted and amended to read:

459.017 Osteopathic physician's consent; handwriting samples; mental or physical examinations.—Every osteopathic physician who accepts a license or certificate to practice osteopathic medicine in this state shall, by so accepting the license or certificate or by making and filing a renewal of licensure or certification to practice in this state, be deemed to have given his consent during a lawful investigation of a complaint to the following:

(3) To waive any objection to the admissibility of the medical reports as constituting privileged communications. Such material *maintained by the department* shall remain confidential *and exempt from s. 119.07(1)* ~~in the hands of the department~~ until probable cause is found and an administrative complaint issued. *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Section 15. Notwithstanding the October 1, 1991, repeal specified in section 119.14(3)(a), Florida Statutes, section 459.018, Florida Statutes, is reenacted and amended to read:

459.018 Search warrants for certain violations.—When the department has reason to believe that violations of s. 459.015(1)(u) or s. 459.015(1)(v) have occurred or are occurring, its agents or other duly authorized persons may search an osteopathic physician's place of practice for purposes of securing such evidence as may be needed for prosecution. Such evidence shall not include any medical records of patients unless pursuant to the patient's written consent. Notwithstanding the consent of the patient, such records *maintained by the department are* ~~shall be treated as~~ confidential and *exempt from s. 119.07(1)* ~~shall not be transferred to any other agency~~. *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.* This section shall not limit the psychotherapist-patient privileges of s. 90.503. Prior to a search, the department shall secure a search warrant from any judge authorized by law to issue search warrants. The search warrant shall be issued upon probable cause, supported by oath or affirmation particularly describing the things to be seized. The application for the warrant shall be sworn to and subscribed, and the judge may require further testimony from witnesses, supporting affidavits, or depositions in writing to support the application. The application and supporting information, if required, must set forth the facts tending to establish the grounds of the application or probable cause that they exist. If the judge is satisfied that probable cause exists, he shall issue a search warrant signed by him with his name of office to any agent or other person duly authorized by the department to execute process, commanding the agent or person to search the place described in the warrant for the property specified. The search warrant shall be served only by the agent or person mentioned in it and by no other person except an aide of the agent or person when such agent or person is present and acting in its execution.

Section 16. Notwithstanding the October 1, 1991, repeal specified in section 119.14(3)(a), Florida Statutes, subsections (6) and (7) of section 460.4104, Florida Statutes, are reenacted and amended to read:

460.4104 Peer review of services and fees of licensees under this chapter.—

(6) An annual summary of the findings of each peer review committee shall be prepared by the reviewing entity and submitted to the department. The report may be made available to interested persons upon request and upon payment of necessary administrative costs to defray the expenses of reproduction. *Any information contained in such a* ~~No~~ report or summary *maintained* ~~submitted to the public~~ by the department *which* may *identify a* ~~disclose the name or identifier of any~~ patient *is confidential and exempt from s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

(7) The department may, pursuant to s. 455.241(2), obtain patient records to be used solely for the purpose of the board and department in peer review or where peer review finds a violation of s. 460.413(1)(n) or (o) and files a complaint. Unless written authorization has been obtained from the patient, the patient records *maintained by the department* shall be *confidential and exempt from s. 119.07(1)* ~~sealed and shall not be available to the public pursuant to s. 119.07 or any other statute providing access to public records~~. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 17. Notwithstanding the October 1, 1991, repeal specified in section 119.14(3)(a), Florida Statutes, paragraph (c) of subsection (4) and paragraph (a) of subsection (6) of section 461.0132, Florida Statutes, are reenacted and amended to read:

461.0132 Treatment programs for impaired practitioners.—

(4)

(c) The probable cause panel shall work directly with the consultant, and all information concerning a practitioner obtained from the consultant by the panel shall remain confidential *and exempt from s. 119.07(1)*, subject to the provisions of subsections (6) and (7). *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

(6)(a) An approved treatment provider shall, upon request, disclose to the consultant all information in its possession regarding the issue of a practitioner's impairment and his participation in the treatment program. ~~Notwithstanding s. 119.14,~~ All information obtained by the consultant and the department pursuant to this section is *confidential and* exempt from ~~disclosure under~~ s. 119.07*(1)* ~~and shall be held confidential~~, subject to the provisions of this subsection and subsection (7). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Failure to provide such information to the consultant is grounds for withdrawal of approval of such program or provider.

Section 18. Notwithstanding the October 1, 1991, repeal specified in section 119.14(3)(a), Florida Statutes, paragraph (e) of subsection (4) and paragraph (a) of subsection (6) of section 463.0165, Florida Statutes, are reenacted and amended to read:

463.0165 Treatment programs for impaired practitioners.—

(4)

(e) The probable cause panel shall work directly with the consultant, and all information concerning a practitioner obtained from the consultant by the panel shall remain confidential *and exempt from s. 119.07(1)*, subject to the provisions of subsections (6) and (7). *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

(6)(a) An approved treatment provider shall, upon request, disclose to the consultant all information in its possession regarding the issue of a practitioner's impairment and his participation in the treatment program. ~~Notwithstanding the provisions of s. 119.14,~~ All information obtained by the consultant and the department pursuant to this section is *confidential and* exempt from ~~disclosure under~~ s. 119.07(1) ~~and shall be held confidential~~, subject to the provisions of this subsection and subsection (7). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Failure to provide such information to the consultant is grounds for withdrawal of approval of such program or provider.

Section 19. Notwithstanding the October 1, 1991, repeal specified in section 119.14(3)(a), Florida Statutes, paragraph (e) of subsection (4) and paragraph (a) of subsection (6) of section 464.0185, Florida Statutes, are reenacted and amended to read:

464.0185 Treatment programs for impaired practitioners.—

(4)

(e) The probable cause panel shall work directly with the consultant, and all information concerning a practitioner obtained from the consultant by the panel shall remain confidential *and exempt from s. 119.07(1)*, subject to the provisions of subsections (6) and (7). *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

(6)(a) An approved treatment provider shall, upon request, disclose to the consultant all information in its possession regarding the issue of a practitioner's impairment and his participation in the treatment program. ~~Notwithstanding s. 119.14,~~ All information obtained by the consultant and the department pursuant to this section is *confidential and* exempt from ~~disclosure under~~ s. 119.07*(1)* ~~and shall be held confidential~~, subject to the provisions of this subsection and subsection (7). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Failure to provide such information to the consultant is grounds for withdrawal of approval of such program or provider.

Section 20. Notwithstanding the October 1, 1991, repeal specified in section 119.14(3)(a), Florida Statutes, paragraph (e) of subsection (4) and paragraph (a) of subsection (6) of section 465.0165, Florida Statutes, are reenacted and amended to read:

465.0165 Treatment programs for impaired practitioners.—

(4)

(e) The probable cause panel shall work directly with the consultant, and all information concerning a practitioner obtained from the consultant by the panel shall remain confidential *and exempt from s. 119.07(1)*, subject to the provisions of subsections (6) and (7). *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

(6)(a) An approved treatment provider shall, upon request, disclose to the consultant all information in its possession regarding the issue of a practitioner's impairment and his participation in the treatment program. ~~Notwithstanding the provisions of s. 119.14,~~ All information obtained by the consultant and the department pursuant to this section is *confidential and* exempt from ~~disclosure under~~ s. 119.07*(1)* ~~and shall be held confidential~~, subject to the provisions of this subsection and subsection (7). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Failure to provide such information to the consultant is grounds for withdrawal of approval of such program or provider.

Section 21. Notwithstanding the October 1, 1991, repeal specified in section 119.14(3)(a), Florida Statutes, subsection (1) of section 465.186, Florida Statutes, is reenacted and amended to read:

465.186 Pharmacist's order for medicinal drugs; dispensing procedure; development of formulary.—

(1) There is hereby created a committee composed of two members of the Board of *Medicine* ~~Medical Examiners~~ licensed under chapter 458 chosen by said board, one member of the Board of Osteopathic Medical Examiners licensed under chapter 459 chosen by said board, three members of the Board of Pharmacy licensed under this chapter and chosen by said board, and one additional person with a background in health care or pharmacology chosen by the committee. The committee shall establish a formulary of medicinal *drug products and dispensing procedures* ~~drugs~~ which *shall be used by* ~~may be made available to the public upon the order of~~ a pharmacist *when ordering and* ~~which is issued pursuant to a~~ dispensing *such* ~~procedure established by the committee for each~~ drug *products to the public* ~~contained in such formulary~~. Dispensing procedures may include matters related to reception of patient, description of his condition, patient interview, patient physician referral, product selection, and dispensing and use limitations. In developing the formulary of medicinal drug products, the committee may include products falling within the following categories:

(a) Any medicinal drug of single or multiple active ingredients in any strengths when such active ingredients have been approved individually or in combination for over-the-counter sale by the U.S. Food and Drug Administration.

(b) Any medicinal drug recommended by the U.S. Food and Drug Administration Advisory Panel for transfer to over-the-counter status pending approval by the U.S. Food and Drug Administration.

(c) Any medicinal drug containing any antihistamine or decongestant as a single active ingredient or in combination.

(d) Any medicinal drug containing fluoride in any strength.

(e) Any medicinal drug containing lindane in any strength.

However, any drug which is sold as an over-the-counter proprietary drug under federal law shall not be included in the formulary or otherwise affected by this section.

Section 22. Notwithstanding the October 1, 1991, repeal specified in section 119.14(3)(a), Florida Statutes, subsections (2) and (3) of section 466.022, Florida Statutes, are reenacted and amended to read:

466.022 Peer review; records; immunity.—

(2) Information obtained from the official records of peer review organizations or committees shall not be subject to discovery or introduction into evidence in any disciplinary proceeding against a licensee. Further, no person who voluntarily serves on a peer review committee or who investigates a complaint for the committee shall be permitted or required to testify in any such disciplinary proceeding as to any evidence or other matters produced or presented during the proceedings of such organization or committee or as to any findings, recommendations, evaluations, opinions, or other actions of such organization or committee or any members thereof. However, nothing in this section shall be construed to mean that information, documents, or records otherwise available and obtained from original sources are immune from discovery or use in any such disciplinary proceeding merely because they were presented during proceedings of a peer review organization or committee. Members of peer review organizations shall assist the department in identification of such original sources when possible.

(3) Peer review information obtained by the department as background information shall remain confidential and *exempt from ss. 119.07(1) and* ~~shall not be subject to the provisions of s.~~ 286.011 regardless of whether probable cause is found. The provisions of s. 766.101 continue to apply in full notwithstanding the fact that peer review information becomes available to the department pursuant to this chapter. For the purpose of this section, official records of peer review organizations or committees include correspondence between the dentist who is the subject of the complaint and the organization; correspondence between the complainant and the organization; diagnostic data, treatment plans, and radiographs used by investigators or otherwise relied upon by the organization or committee; results of patient examinations; interviews; evaluation worksheets; recommendation worksheets; and peer review report forms. *These exemptions are subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Section 23. Notwithstanding the October 1, 1991, repeal specified in section 119.14(3)(a), Florida Statutes, subsection (2) of section 466.0275, Florida Statutes, is reenacted and amended to read:

466.0275 Lawful investigations; consent handwriting samples; mental or physical examination.—Every dentist who accepts a license to practice dentistry in this state shall, by so accepting the license or by making and filing a renewal of licensure to practice in this state, be deemed to have given consent, during a lawful investigation of a complaint to the following:

(2) Only in those circumstances where there is probable cause that the dentist is guilty of violations involving moral turpitude, impairment, violations of laws governing controlled substances, or any violation of criminal law, the dentist shall be deemed to waive the confidentiality and to execute a release of medical reports pertaining to the mental or physical condition of the dentist himself. The department shall issue an order, based on the need for additional information, to produce such medical reports for the time period relevant to the investigation. As used in this section, "medical reports" means a compilation of medical treatment of the dentist himself which includes symptoms, diagnosis, treatment prescribed, relevant history, and progress. The dentist shall also be deemed to waive any objection to the admissibility of the reports as constituting privileged communications. Such material *maintained by the department* shall remain confidential *and exempt from s. 119.07(1)* ~~in the hands of the department~~ until probable cause is found and an administrative complaint issued. *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Section 24. Notwithstanding the October 1, 1991, repeal specified in section 119.14(3)(a), Florida Statutes, paragraph (e) of subsection (4) and paragraph (a) of subsection (6) of section 466.0283, Florida Statutes, are reenacted and amended to read:

466.0283 Treatment programs for impaired practitioners.—

(4)

(e) The probable cause panel shall work directly with the consultant, and all information concerning a practitioner obtained from the consultant by the panel shall remain confidential *and exempt from s. 119.07(1),* subject to the provisions of subsections (6) and (7). *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

(6)(a) An approved treatment provider shall, upon request, disclose to the consultant all information in its possession regarding the issue of a practitioner's impairment and his participation in the treatment program. ~~Notwithstanding the provisions of s. 119.14,~~ All information obtained by the consultant and the department pursuant to this section *is confidential and* exempt *from* ~~disclosure under~~ s. 119.07*(1),* ~~and shall be held confidential~~ subject to the provisions of this subsection and subsection (7). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Failure to provide such information to the consultant is grounds for withdrawal of approval of such program or provider.

Section 25. Notwithstanding the October 1, 1991, repeal specified in section 119.14(3)(a), Florida Statutes, subsection (3) of section 466.041, Florida Statutes, is reenacted to read:

466.041 Hepatitis B carriers.—

(3) Any report of hepatitis B carrier status filed by a licensee or applicant in compliance with the requirements established by the board shall be confidential and exempt from the provisions of s. 119.07(1), except for the purpose of the investigation or prosecution of alleged violations of this chapter by the department. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 26. Notwithstanding the October 1, 1991, repeal specified in section 119.14(3)(a), Florida Statutes, paragraph (c) of subsection (1) and subsections (2) and (3) of section 473.316, Florida Statutes, are reenacted to read:

473.316 Communications between the accountant and client privileged.—

(1) For purposes of this section:

(c) A communication between an accountant and his client is "confidential" if it is not intended to be disclosed to third persons other than:

1. Those to whom disclosure is in furtherance of the rendition of accounting services to the client.

2. Those reasonably necessary for the transmission of the communication.

(2) A client has a privilege to refuse to disclose, and to prevent any other person from disclosing, the contents of confidential communications with an accountant when such other person learned of the communications because they were made in the rendition of accounting services to the client. This privilege includes other confidential information obtained by the accountant from the client for the purpose of rendering accounting advice.

(3) The privilege may be claimed by:

(a) The client.

(b) A guardian or conservator of the client.

(c) The personal representative of a deceased client.

(d) A successor, assignee, trustee in dissolution, or any similar representative of an organization, corporation, or association or other entity, either public or private, whether or not in existence.

(e) The accountant, but only on behalf of the client. The accountant's authority to claim the privilege is presumed in the absence of contrary evidence.

Section 27. Notwithstanding the October 1, 1991, repeal specified in section 119.14(3)(a), Florida Statutes, paragraph (e) of subsection (4) and paragraph (a) of subsection (6) of section 474.2141, Florida Statutes, are reenacted and amended to read:

474.2141 Treatment programs for impaired practitioners.—

(4)

(e) The probable cause panel shall work directly with the consultant, and all information concerning a practitioner obtained from the consultant by the panel shall remain confidential *and exempt from s. 119.07(1)*, subject to the provisions of subsections (6) and (7). *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

(6)(a) An approved treatment provider shall, upon request, disclose to the consultant all information in its possession regarding the issue of a practitioner's impairment and his participation in the treatment program. ~~Notwithstanding the provisions of s. 119.14,~~ All information obtained by the consultant and the department pursuant to this section is *confidential and* exempt from ~~disclosure under~~ s. 119.07*(1)* ~~and shall be held confidential~~, subject to the provisions of this subsection and subsection (7). This exemption is subject to the Open Government Sunset *Review* Act in accordance with s. 119.14. Failure to provide such information to the consultant is grounds for withdrawal of approval of such program or provider.

Section 28. Notwithstanding the October 1, 1991, repeal specified in section 119.14(3)(a), Florida Statutes, subsection (3) of section 474.2185, Florida Statutes, is reenacted and amended to read:

474.2185 Veterinarians consent; handwriting samples; mental or physical examinations.—A veterinarian who accepts a license to practice veterinary medicine in this state shall, by so accepting the license or by making and filing a renewal of licensure to practice in this state, be deemed to have given his consent, during a lawful investigation of a complaint or of an application for licensure and when the information has been deemed necessary and relevant to the investigation as determined by the secretary of the department, to the following:

(3) To waive any objection to the admissibility of the reports as constituting privileged communications. Such material *maintained by the department is* ~~shall remain~~ confidential *and exempt from s. 119.07(1)* ~~in the hands of the department~~ until probable cause is found and an administrative complaint is issued. *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Section 29. Section 476.224, Florida Statutes, is hereby repealed.

Section 30. Notwithstanding the October 1, 1991, repeal specified in section 119.14(3)(a), Florida Statutes, paragraph (e) of subsection (4) and paragraph (a) of subsection (6) of section 490.0095, Florida Statutes, are reenacted and amended to read:

490.0095 Treatment programs for impaired practitioners.—

(4)

(e) The probable cause panel shall work directly with the consultant, and all information concerning a practitioner obtained from the consultant by the panel shall remain confidential *and exempt from s. 119.07(1)*, subject to the provisions of subsections (6) and (7). *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

(6)(a) An approved treatment provider shall, upon request, disclose to the consultant all information in its possession regarding the issue of a practitioner's impairment and his participation in the treatment program. ~~Notwithstanding the provisions of s. 119.14,~~ All information obtained by the consultant and the department pursuant to this section is *confidential and* exempt from ~~disclosure under~~ s. 119.07(1) ~~and shall be held confidential~~, subject to the provisions of this subsection and subsection (7). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Failure to provide such information to the consultant is grounds for withdrawal of approval of such program or provider.

Section 31. This act shall take effect October 1, 1991.

House Amendment 2—Strike the title and insert: A bill to be entitled An act relating to confidentiality of records and meetings associated with the regulation of professions; amending ss. 455.217, 455.225, 455.229, 455.241, and 455.247, F.S., which provide exemptions from public records and public meeting requirements for the following: records of, and meetings relating to, examinations; complaints filed with the Department of Professional Regulation, information obtained in investigations, and proceedings of probable cause panels; information required of applicants; patient records obtained by the department; and information relating to injured persons in reports by health care practitioners on professional liability claims and actions; saving said exemptions from repeal; providing for future review and repeal; repealing s. 455.230, F.S., which provides requirements relating to review of examination questions and answers, challenge thereof, and introduction into evidence; revising such requirements as specified in s. 455.229, F.S.; reenacting s. 455.232, F.S., which prohibits disclosure of confidential information and provides a penalty; amending ss. 458.3315, 458.337, 458.339, 458.341, 459.0155, 459.016, 459.017, and 459.018, F.S., which provide exemptions from public records requirements for the following records relating to physicians and osteopathic physicians: information concerning impaired practitioners obtained by the department, consultants, and probable cause panels; reports concerning disciplinary action taken by medical organizations and hospitals; medical reports pertaining to the practitioner; and patient records obtained by the department; amending ss. 460.4104 and 466.022, F.S., which provide exemptions from public records and meeting requirements for patient records and other information obtained by the department in connection with peer review of chiropractic physicians and dentists; amending s. 461.0132, 463.0165, 464.0185, 465.0165, 466.0283, 474.2141, and 490.0095, F.S., which provide exemptions from public records requirements for information concerning impaired practitioners obtained by the department, consultants, and probable cause panels with respect to podiatrists, optometrists, nurses, pharmacists, dentists, veterinarians, and psychologists; amending s. 465.186, F.S., relating to establishment of a formulary of medicinal drug products and dispensing procedures; amending ss. 466.0275 and 474.2185, F.S., which provide exemptions from public records requirements for medical reports pertaining to dentists and veterinarians; reenacting s. 466.041(3), F.S., which provides an exemption from public records requirements for reports regarding hepatitis B carrier status of dentists; reenacting s. 473.316(1)(c), (2), and (3), F.S., relating to confidentiality of communications between an accountant and his client; saving such exemptions from repeal; providing for future review and repeal; repealing s. 476.224, F.S., relating to requirements regarding complaints against barbers filed with the department; providing an effective date.

On motions by Senator Thurman, the Senate concurred in the House amendments.

SB 942 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—35 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives returns, as requested, CS for SB 1330.

John B. Phelps, Clerk

CS for SB 1330—A bill to be entitled An act relating to neighborhood improvement districts; amending s. 163.514, F.S.; authorizing such districts to make and collect special assessments; requiring referendum approval and providing requirements with respect thereto; providing an effective date.

RECONSIDERATION

On motion by Senator Jenne, the Senate reconsidered the vote by which **CS for SB 1330** passed April 22.

Two amendments were adopted to **CS for SB 1330** to conform the bill to **CS for CS for CS for HB 827**.

Pending further consideration of **CS for SB 1330** as amended, on motions by Senator Jenne, by two-thirds vote **CS for CS for CS for HB 827** was withdrawn from the Committees on Community Affairs; Judiciary; Finance, Taxation and Claims; and Appropriations.

On motion by Senator Jenne—

CS for CS for CS for HB 827—A bill to be entitled An act relating to neighborhood improvement districts; amending s. 163.501, F.S.; revising a cross reference in the short title of the Safe Neighborhoods Act; amending s. 163.502, F.S.; revising legislative findings and intent; amending s. 163.503, F.S.; redefining "department" to mean the Department of Legal Affairs rather than the Department of Community Affairs; expanding the definition of "board"; creating s. 163.5035, F.S.; requiring compliance with chapter 189; amending s. 163.504, F.S.; providing technical and conforming changes; creating s. 163.5055, F.S.; requiring neighborhood

improvement districts to register with both the Department of Community Affairs and the Department of Legal Affairs; requiring notification of dissolution of a district; amending ss. 163.506, 163.508, and 163.511, F.S.; requiring notification of the establishment of such districts; providing technical changes; creating s. 163.512, F.S.; authorizing the creation of community redevelopment neighborhood improvement districts; authorizing use of the community redevelopment trust fund to implement safe neighborhood improvement plans; providing duties of the advisory council; providing for dissolution of the districts; amending s. 163.513, F.S.; providing that districts may not restrict access to or lawful use of public facilities; providing technical changes; amending s. 163.514, F.S., and repealing subsections (15), (16), and (18), relating to the power to issue revenue bonds and to pledge revenues to the payment thereof and to make and collect general assessments; authorizing neighborhood improvement districts to make and collect special assessments; requiring referendum approval and providing requirements with respect thereto; amending s. 163.5151, F.S.; conforming references; amending s. 163.516, F.S.; providing technical changes; amending s. 163.517, F.S.; revising the number and amount of planning grants provided under the Safe Neighborhoods Trust Fund; revising application criteria provisions; requiring audits; requiring the department to promulgate rules; repealing s. 163.518, F.S., relating to the crime prevention through environmental design program; amending s. 163.519, F.S.; changing administrative duties from the Department of Community Affairs to the Department of Legal Affairs and adding duties, including certain reporting duties; amending s. 163.521, F.S.; modifying provisions relating to district overlap with enterprise zones; requiring completion and approval of a safe neighborhood improvement plan prior to expenditure of capital improvement funds; requiring that capital improvement funding requests be related to crime prevention through environmental design, environmental security, and defensible space; providing for rank ordering of requests for capital improvement funding; creating s. 163.5215, F.S.; providing for effect of the Safe Neighborhoods Act on existing laws; amending s. 163.522, F.S.; encouraging the creation of neighborhood improvement districts within community redevelopment areas; transferring the Safe Neighborhoods Trust Fund; providing an appropriation; providing an effective date.

—a companion measure, was substituted for **CS for SB 1330** and read the second time by title. On motion by Senator Jenne, by two-thirds vote **CS for CS for CS for HB 827** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives returns, as requested, CS for SB 2126.

John B. Phelps, Clerk

CS for SB 2126—A bill to be entitled An act relating to fiscal affairs of the state; amending s. 161.091, F.S., relating to the Beach Management Trust Fund; eliminating funds from the State Infrastructure Fund for beach management purposes; amending s. 201.15, F.S.; providing for the distribution of revenues from the state excise tax on documents to the General Revenue Fund and the Land Acquisition Trust Fund rather than the State Infrastructure Fund and increasing the amounts to be distributed to the Land Acquisition Trust Fund; amending s. 212.0606, F.S.; providing for distribution of the proceeds of rental car surcharges to specified funds; amending s. 212.20, F.S.; eliminating distribution of revenues from the state tax on sales, use, and other transactions to the State Infrastructure Fund; providing for distribution thereof to the General Revenue Fund; amending s. 212.69, F.S.; increasing the amount of the proceeds to be distributed annually from the State Transportation Trust Fund; specifying purposes for which such distribution may be used; amending s. 215.32, F.S.; eliminating the State Infrastructure Fund as a fund in the State Treasury; requiring certain annual appropriations of general revenue for certain state-level purposes; amending s. 216.016, F.S.; eliminating the State Infrastructure Fund as a source for certain projects; amending s. 216.167, F.S.; eliminating the State Infrastructure Fund from the Governor's consideration regarding his budget recommendations; amending s. 320.072, F.S.; providing for disposition of proceeds from additional fees imposed on certain motor vehicle registration transactions; amending s. 366.84, F.S.; restricting the Florida Energy Trust Fund to the sole purpose of subsidizing and guaranteeing loans made prior to July 1, 1991; amending s. 24.121, F.S.; increasing the percentage of lottery revenues allocated to the Educational Enhancement Trust Fund; amending s. 259.101, F.S.; providing for the distribution of proceeds in the Preservation 2000 Trust Fund; amending s. 253.025, F.S.; increasing funds for acquisition of lands from the Resolution Trust Corporation; amending s. 373.459, F.S.; removing the requirement for funds to be continually appropriated; changing the cost sharing from the Surface Water Improvement and Management Trust Fund; repealing s. 195.094, F.S., relating to the Property Assessment Loan Fund; repealing s. 212.235, F.S., relating to the State Infrastructure Fund; repealing s. 216.175, F.S., relating to State Infrastructure Fund appropriations; reappropriating certain funds; appropriating money for transfer to the Department of Highway Safety and Motor Vehicles to offset an anticipated deficit in the Law Enforcement Trust Fund; providing an effective date.

RECONSIDERATION

On motion by Senator Gardner, the rules were waived and the Senate reconsidered the vote by which **CS for SB 2126** as amended passed April 11.

On motions by Senator Gardner, the Senate reconsidered the vote by which the Senate concurred in **House Amendments 1** and **2** as amended.

On motions by Senator Gardner, the Senate reconsidered the vote by which **Senate Amendment 1 to House Amendment 1** and **Senate Amendment 1 to House Amendment 2** were adopted.

Senate Amendment 1 to House Amendment 1 and **Senate Amendment 1 to House Amendment 2** failed.

Senator Gardner moved the following amendments which were adopted:

Senate Amendment 5 to House Amendment 1—On page 2, strike line 8 and insert:

(1) *Seventy-five* ~~Seventy and four tenths~~ percent of the total taxes

Senate Amendment 6 to House Amendment 1—On page 3, strike all of lines 10-16 and insert:

~~(5) Four and six tenths percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the State Infrastructure Trust Fund.~~

Senate Amendment 4 to House Amendment 2—In title, on page 1, strike all of lines 20-24 and insert: revising the distribution of revenues from the state excise tax on documents; increasing certain annual caps on

On motions by Senator Gardner, the Senate concurred in the House amendments as amended and the House was requested to concur in the Senate amendments to the House amendments.

CS for SB 2126 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—34 Nays—None

RETURNING MESSAGES ON HOUSE BILLS

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has amended Senate Amendments 1 and 2, concurred in same as amended, passed as further amended, HB 2313 and requests the concurrence of the Senate.

John B. Phelps, Clerk

HB 2313—A bill to be entitled An act relating to fiscal affairs of the state; amending s. 215.32, F.S.; requiring the Administration Commission to provide the chairmen of the legislative appropriations committees with certain information on trust funds approved for establishment by the commission; providing for automatic abolishment of such trust funds; requiring certain legislative authorization to continue such trust funds; prohibiting reestablishment of abolished trust funds, except in certain circumstances; providing duties of the Comptroller; providing exemptions; providing for transfer of trust funds to the Working Capital Fund to prevent a deficit in general revenue; providing exemptions; clarifying the moneys available in the General Revenue Fund; amending s. 216.011, F.S., and repealing paragraph (1)(e), relating to the definition of "bienni-

um"; modifying the definition of "fixed capital outlay"; defining "emergency situation"; amending s. 216.0158, F.S.; changing a date for submission of a facility needs assessment; conforming to annual budgeting; amending s. 216.023, F.S.; changing the dates for disseminating the budget instructions and for submitting legislative budget requests; providing for annual submission; conforming provisions relating to agency legislative budget requests to truth-in-bonding provisions; amending s. 216.031, F.S.; changing a date for submission of separate major issues relating to budgets for operational expenditures; changing from biennial to annual budgeting; amending s. 216.043, F.S.; changing from biennial to annual budgeting; requiring state agencies to include certain truth-in-bonding information in any legislative budget request for fixed capital outlay or operating capital outlay proposed to be funded by a proposed state debt or obligation; amending s. 216.044, F.S.; requiring the Department of General Services to assist state agencies and the Executive Office of the Governor in fulfilling truth-in-bonding information requirements; creating s. 216.0442, F.S., relating to truth in bonding; providing definitions; requiring development of a summary of state debt, a statement of proposed financing, and a truth-in-bonding statement, under specified circumstances; creating s. 216.065, F.S.; providing for fiscal impact statements on actions affecting the budget; amending s. 216.081, F.S.; changing a date for submission of estimates of financial needs of the legislative branch; conforming to annual budgeting; amending s. 216.136, F.S.; conforming to annual budgeting; amending s. 216.162, F.S.; modifying the time of submission of the Governor's recommended budget under certain circumstances; amending s. 216.163, F.S.; conforming to annual budgeting; requiring inclusion of state debt, debt financing, and truth-in-bonding documents in the Governor's recommended budget for each specific fixed capital outlay project or group of projects or operating capital outlay requests to be funded from a proposed state debt or obligation; amending s. 216.165, F.S.; conforming to annual budgeting; amending s. 216.167, F.S.; requiring inclusion of state debt, debt financing, and truth-in-bonding documents, and a 5-year estimate of program operational costs, in certain of the Governor's recommendations; amending s. 216.168, F.S.; changing a date relating to the Governor's amended revenue or budget recommendations; creating s. 216.174, F.S.; providing specifications for the bill which enacts legislative budget decisions; requiring truth-in-bonding provisions, under certain circumstances; amending s. 216.177, F.S.; requiring the chairmen of the legislative appropriations committees to jointly transmit certain information relating to state debt and truth-in-bonding to the Executive Office of the Governor, the Comptroller, the Auditor General, and each state agency; authorizing a shorter period of notice of budget actions under certain circumstances; prohibiting action by the commission on certain budget items without notice; creating s. 216.179, F.S.; prohibiting reinstatement of vetoed appropriations by administrative means; amending s. 216.181, F.S.; providing for advance payments for program startup or contracted services by agencies authorized by the General Appropriations Act; amending s. 216.195, F.S.; limiting impoundment of funds by the commission; amending s. 216.221, F.S.; authorizing use of certain legislative branch appropriations and the Working Capital Fund to prevent a deficit in the General Revenue Fund; requiring notice to the Legislature of certain proposed reductions or adjustments to agency budgets; providing restrictions on restoring budget reductions; amending ss. 216.271 and 216.275, F.S.; conforming to annual budgeting; creating s. 216.2815, F.S.; providing that any appropriation made in the General Appropriations Act to a private or nongovernmental organization or person shall be a public record and may be audited by the Auditor General; amending s. 216.301, F.S.; modifying provisions and changing dates relating to certification of undisbursed funds to the Executive Office of the Governor, including certain fixed capital outlay appropriations; providing a date by which the review of such certifications shall be completed; creating s. 216.346, F.S.; restricting assessment of overhead and other indirect costs in any contract between state agencies; creating s. 216.347, F.S.; prohibiting disbursement of grants and aids appropriations for lobbying; creating s. 216.349, F.S.; requiring review of grants and aids appropriations; requiring audits or attestation statements on such appropriations to certain entities; requiring the Governor to submit to the Secretary of State a statement of the estimated costs of each new proposed state debt or obligation in the General Appropriations Act; repealing s. 216.045, F.S., relating to supplemental appropriations; repealing s. 216.046, F.S., relating to the Governor's supplemental recommendations; amending ss. 229.053, 229.575, 231.087, 240.2601, 282.308, and 407.04, F.S., relating to various reports by the State Board of Education, Commissioner of Education, public schools, Florida Council on Educational Management, state universities, and Health Care Cost Containment Board, to conform; amending ss. 339.135 and 409.185, F.S.; correcting references; providing for a reviser's bill; providing an effective date.

House Amendment 1 to Senate Amendment 1—On page 3, between lines 23 and 24, insert:

6.a. Notwithstanding the provisions of subparagraph 5. or any other provision of law restricting the use of trust funds to specific purposes, unappropriated cash balances from selected trust funds may be authorized by the Administration Commission for transfer to the Working Capital Fund whenever it is determined by the commission pursuant to s. 216.221 that revenue collections in the General Revenue Fund will be insufficient to meet General Revenue Fund appropriations and, after consultation with the legislative appropriations committees, that it would be prudent to transfer such trust funds to protect the state's bond rating and to preserve the size of the Working Capital Fund. However, the commission shall not use such transfer authority to increase the Working Capital Fund to an amount in excess of that determined by the first Revenue Estimating Conference held after the regular legislative session. The commission is authorized to exempt any trust fund when, by operation of the provisions of this subparagraph, federal matching funds or contributions to such trust fund would be lost to the state. In addition, if it is determined by the commission that, by reason of payments already made into the Working Capital Fund by any trust fund pursuant to the provisions of this subparagraph, such trust fund is subject to the loss of federal assistance, then the commission shall certify to the Department of Banking and Finance or the State Treasurer the amount to be returned to such trust fund, and the Department of Banking and Finance or the State Treasurer, as the case may be, shall thereupon refund and pay over the amount certified to such trust fund.

b. The provisions of this subparagraph shall not apply to the Educational Enhancement Trust Fund, any trust fund established by the State Constitution, retirement trust funds, the State Transportation Trust Fund, any trust fund invested by law by the State Board of Administration, any trust fund established by bond indentures or resolutions, any trust fund the revenues of which are legally pledged by the state or any public body to meet debt service or other financial requirements of any debt obligations of the state or such public body, or any trust fund that serves as a clearing fund or account for any state agency.

House Amendment 2 to Senate Amendment 1—On page 34, lines 6 and 7, strike "or Water Management District"

House Amendment 3 to Senate Amendment 1—On page 45, line 28, through page 46, line 30, strike all of said lines and renumber the subsequent sections

House Amendment 4 to Senate Amendment 1—On page 34, line 14, after the period (.) insert: However, for the purposes of this section and s. 11.062, the payment of funds for the purpose of registering as a lobbyist shall not be considered a lobbying purpose.

House Amendment 1 to Senate Amendment 2—On page 5, lines 17-28, strike all of said lines and insert: appropriations for lobbying; creating s. 216.3475, F.S.; imposing a

House Amendment 2 to Senate Amendment 2—On page 6, lines 19-26, strike all of said lines and insert: references; providing for a

On motions by Senator Gardner, the Senate concurred in **House Amendment 4 to Senate Amendment 1** and **House Amendment 1 to Senate Amendment 2;** refused to concur in **House Amendments 1, 2** and **3 to Senate Amendment 1** and refused to concur in **House Amendment 2 to Senate Amendment 2** and the House was requested to recede.

HB 2313 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37 Nays—None

RETURNING MESSAGES—FINAL ACTION

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 114, CS for SB 204, Senate Bills 646 and 1226.

John B. Phelps, Clerk

The bills contained in the foregoing message were ordered enrolled.

AMENDMENTS TO SENATE BILLS

CS for SB 130

Senator Crenshaw moved the following amendment which was adopted:

Amendment 1—On page 2, lines 10 and 11, strike "upon becoming a law" and insert: January 1, 1992

Senator Dudley moved the following amendments which failed:

Amendment 2—On page 1, strike all of lines 25-28 and insert: higher. No contributions shall be required and no benefits shall be paid under the provisions of the Florida Retirement System with regard to any payment made under the provisions of this section *for a law enforcement officer elected, appointed, or employed full time by any municipality or any political subdivision of the state.*

Amendment 3—On page 1, line 29, through page 2, line 9, strike all of said lines and renumber subsequent section.

CS for SB 156

Senator Davis moved the following amendments which were adopted:

Amendment 1—On page 5, between lines 20 and 21, insert:

(4) LIMITATION ON SURTAXES.—Notwithstanding any other provision of this section, a county may not levy local option sales surtaxes authorized under this section in excess of a combined rate of 2 percent.

Amendment 2—In title, on page 1, line 18, after the semicolon (;) insert: providing a limitation on the combined surtax amount that may be imposed by counties;

Amendment 3—On page 2, strike line 5 and insert:

Section 2. Subsections (3) and (4) are added to section 212.055

Senator Diaz-Balart moved the following amendments which were adopted:

Amendment 4—On page 5, between lines 20 and 21, insert:

(g) In a county as defined in s. 125.011(1), for the purposes of this subsection, "county public general hospital" means a general hospital as defined in s. 395.002 which is owned, operated, maintained, or governed by the county or its agency, authority, or public health trust.

1. The rate shall be 0.5 percent.

2. The proposal to adopt the discretionary health care surtax shall be placed on the ballot in accordance with law at a time to be set at the discretion of the governing body. The referendum question on the ballot shall include a brief general description of the health care services to be funded by the surtax.

3. Proceeds from the surtax shall be:

a. Deposited by the county in a special fund, set aside from other county funds, to be used only for the operation, maintenance, and administration of the county public general hospital; and

b. Remitted promptly by the county to the agency, authority, or public health trust created by law which administers or operates the county public general hospital.

4. The county shall continue to contribute each year at least 80 percent of that percentage of the total county budget appropriated for the operation, administration, and maintenance of the county public general hospital from the county's general revenues in the fiscal year of the county ending September 30, 1991

Amendment 5—In title, on page 1, line 11, after the semicolon (;) insert: or to finance county public hospitals;

Amendment 6—On page 3, line 23, after "paragraph (e)" insert: *, or a plan for expending the surtax proceeds under paragraph (g), if applicable*

Amendment 7—On page 2, line 28, after the period (.) insert: *Except as provided in paragraph (g),*

SB 206

Senator Meek moved the following amendments which were adopted:

Amendment 1—On page 1, between lines 22 and 23, insert:

Section 2. The State Board of Education shall adopt rules pursuant to which an area vocational-technical center or community college may conduct vocational education programs to meet statewide workforce shortage needs.

(Renumber subsequent sections.)

Amendment 2—In title, on page 1, line 5, after the semicolon (;) insert: directing the State Board of Education to adopt rules regarding the provision of vocational education programs to meet statewide workforce shortage needs;

CS for SB 268

Senator Malchon moved the following amendment which was adopted:

Amendment 1—On page 1, line 16, after "Aging" insert: or in any agency that is a successor to the commission

SB 1716

Senator Weinstein moved the following amendments which were adopted:

Amendment 1—On page 2, strike line 20 and insert:

Section 3. Section 28.241, Florida Statutes, 1990 Supplement, is amended to read:

28.241 Filing charges for trial and appellate proceedings.—

(1) The party instituting any civil action, suit, or proceeding in the circuit court shall pay to the clerk of that court a service charge of $40 in all cases in which there are not more than five defendants and an additional service charge of $2 for each defendant in excess of five. An additional service charge of $10 shall be paid by the party seeking each severance that is granted. An additional service charge of $35 shall be paid to the clerk for all proceedings of garnishment, attachment, replevin, and distress. An additional service charge of $8 shall be paid to the clerk for each civil action filed, $7 of such charge to be remitted by the clerk to the State Treasurer for deposit into the General Revenue Fund unallocated. An additional charge of $2.50 shall be paid to the clerk for each civil action brought in circuit or county court, to be deposited into the Court Education Trust Fund; the moneys collected shall be forwarded by the clerk to the Supreme Court monthly for deposit in the fund. Service charges in excess of those herein fixed may be imposed by the governing authority of the county by ordinance or by special or local law; and such excess shall be expended as provided by such ordinance or any special or local law, now or hereafter in force, in providing and maintaining facilities, including a law library, for the use of the courts of the county wherein the service charges are collected or for a legal aid program in such county. In addition, the county is authorized to impose, by ordinance or by special or local law, a fee of up to $10 for each civil action filed, contingent upon the county matching these funds from county general revenue, for payment of the costs associated with public guardianships. Postal charges incurred by the clerk of the circuit court in making service by certified or registered mail on defendants or other parties shall be paid by the party at whose instance service is made. That part of the within fixed or allowable service charges which is not by local or special law applied to the special purposes shall constitute the total service charges of the clerk of such court for all services performed by him in civil actions, suits, or proceedings. *The sum of all service charges and fees permitted under this subsection may not exceed $200.*

(2) The clerk of the circuit court of any county in the state who operates his office from fees and service charges collected, as opposed to budgeted allocations from county general revenue, shall be paid by the county as service charges for all services to be performed by him in any criminal or juvenile action or proceeding in such court, in lieu of all other service charges heretofore charged, except as hereinafter provided, the sum of $40 for each defendant or juvenile. However, in cases involving capital punishment the charge shall be $50. In any county where a law creates a law library fund or other special fund, this charge may be increased for that purpose by a special or local law or an ordinance. *The sum of all service charges and fees permitted under this subsection may not exceed $200*

(3) Upon the institution of any appellate proceeding from any inferior court to the circuit court of any such county or from the circuit court to an appellate court of the state, the clerk shall charge and collect from the

party or parties instituting such appellate proceedings a service charge of $75 for filing a notice of appeal from an inferior court and $50 for filing a notice of appeal to a higher court.

(4) A service charge or a fee may not be imposed upon a party for responding by pleading, motion, or other paper to a civil or criminal action, suit, proceeding, or appeal in a circuit court.

(5)~~(4)~~ *The fees prescribed* ~~Nothing~~ in this section *do not* ~~shall be construed to~~ include the service charges required by law for the clerk as provided in s. 28.24 *or by* ~~and~~ other sections of the Florida Statutes.

~~(5) This section shall not apply to any suit or proceeding pending on July 1, 1970.~~

Section 4. Section 34.041, Florida Statutes, 1990 Supplement, is amended to read:

34.041 Service charges and costs.—

(1) Upon the institution of any civil action or proceeding in county court, the plaintiff, when filing his action or proceeding, shall pay the following service charges:

(a) For all claims less than $100 ..... $10.00.

(b) For all claims of $100 or more but not more than $2,500 . 25.00.

(c) For all claims of more than $2,500 ..... 40.00.

(d) In addition, for all proceedings of garnishment, attachment, replevin, and distress ..... 35.00.

(e) For removal of tenant action ..... 35.00.

Postal charges incurred by the clerk of the county court in making service by mail on defendants or other parties shall be paid by the party at whose instance service is made. Except as provided herein, service charges for performing duties of the clerk relating to the county court shall be as provided in ss. 28.24 and 28.241. Service charges in excess of those herein fixed may be imposed by the governing authority of the county by ordinance or by special or local law, and such excess shall be expended as provided by such ordinance or any special or local law now or hereafter in force in providing and maintaining facilities, including a law library, for the use of the county court in the county in which the charge is collected or for a legal aid program. All filing fees shall be retained as fee income of the office of the clerk of circuit court. *The sum of all service charges and fees permitted under this subsection may not exceed $200.*

(2) The judge shall have full discretionary power to waive the prepayment of costs or the payment of costs accruing during the action upon the sworn written statement of the plaintiff and upon other satisfactory evidence of his inability to pay such costs. When costs are so waived, the notation to be made on the records shall be "Prepayment of costs waived," or "Costs waived." The term "pauper" or "in forma pauperis" shall not be employed. If a party shall fail to pay accrued costs, though able to do so, the judge shall have power to deny that party the right to file any new case while such costs remain unpaid and, likewise, to deny such litigant the right to proceed further in any case pending. The award of other court costs shall be according to the discretion of the judge who may include therein the reasonable costs of bonds and undertakings and other reasonable court costs incident to the suit incurred by either party.

(3) In criminal proceedings in county courts, costs shall be taxed against a person in county court upon conviction or estreature pursuant to chapter 939. The provisions of s. 28.241(2) shall not apply to criminal proceedings in county court.

(4) Upon the institution of any appellate proceeding from the county court to the circuit court, there shall be charged and collected from the party or parties instituting such appellate proceedings a service charge as provided in chapter 28.

(5) A charge or a fee may not be imposed upon a party for responding by pleading, motion, or other paper to a civil or criminal action, suit, or proceeding in a county court or to an appeal to the circuit court.

(6)~~(5)~~ In addition to the filing fees provided in subsection (1), in all civil cases, the sum of $7.00 per case shall be paid by the plaintiff when filing his action for the purpose of funding the court costs. Such funds shall be remitted to the General Revenue Fund.

Section 5. Subsection (3) of section 28.2401, Florida Statutes, is amended to read:

28.2401 Service charges in probate matters.—

(3) Service charges in excess of those fixed in this section may be imposed by the governing authority of the county by ordinance, or by special or local law, to provide and maintain facilities, including a law library, or to provide or maintain a legal aid program. Service charges other than those fixed in this section shall be governed by s. 28.24. *An additional service charge of $2.50 on petitions seeking summary administration, family administration, formal administration, ancillary administration, guardianship, curatorship, and conservatorship, shall be paid to the clerk for deposit into the Court Education Trust Fund.*

Section 6. Subsections (1), (2), and (3) of section 44.108, Florida Statutes, 1990 Supplement, are amended to read:

44.108 Funding of mediation and arbitration.—Mediation should be accessible to all parties regardless of financial status. Each board of county commissioners may support mediation and arbitration services by appropriating moneys from county revenues and by:

(1) Levying, in addition to *other* ~~the~~ service charges levied *by law* ~~under s. 28.241~~, a service charge of no more than $5 on any circuit court proceeding, which shall be deposited in the court's mediation-arbitration account fund under the supervision of the chief judge of the circuit in which the county is located; and

(2) Levying, in addition to *other* ~~the~~ service charges levied *by law* ~~pursuant to s. 28.241~~, a service charge of no more than $5 on any county court proceeding, which shall be deposited in the county's mediation-arbitration account fund to be used to fund county civil mediation services under the supervision of the chief judge of the circuit in which the county is located.

(3) Levying, in addition to *other* ~~the~~ service charges levied *by law* ~~under s. 28.241~~, a service charge of no more than $45 on any petition for a modification of a final judgment of dissolution, which shall be deposited in the court's family mediation account fund to be used to fund family mediation services under the supervision of the chief judge of the circuit in which the county is located.

Section 7. This act shall apply only to actions, suits, or proceedings filed on or after the effective date of this act.

Section 8. This act shall take effect July 1, 1991.

Amendment 2—In title, on page 1, strike all of lines 1-9 and insert: A bill to be entitled An act relating to courts; amending s. 318.32, F.S.; revising the jurisdiction of magistrates to hear certain civil traffic infraction cases; providing for assignment of a case to a county court judge upon defendant's request; amending s. 318.37, F.S.; increasing the maximum pay of magistrates; amending s. 28.241, F.S.; specifying the maximum amount of total charges and fees that may be imposed upon the party that initiates certain civil or appellate proceedings in circuit court; specifying the maximum total amount the clerk of the circuit court may charge a county for his services in a criminal or juvenile proceeding in the circuit court; prohibiting the assessment of a charge or fee for filing a responsive pleading in a proceeding in a circuit court; amending s. 34.041, F.S.; specifying the maximum amount of charges and fees that may be imposed upon the party that initiates a civil proceeding in a county court; prohibiting the assessment of a charge or fee for filing a responsive pleading in a proceeding in a county court or in an appeal to a circuit court; amending s. 28.2401, F.S.; providing a service charge on specified probate proceedings to be deposited into the Court Education Trust Fund; amending s. 44.108, F.S.; authorizing counties to levy service charges to support mediation and arbitration services in addition to other service charges levied by law; providing that the act applies to proceedings filed after its effective date; providing an effective date.

CS for SB 2058

Senators Dudley and Thurman offered the following amendment which was moved by Senator Thurman and adopted:

Amendment 4—On page 8, lines 23 and 24, strike ", or any purchaser to knowingly receive,"

Senator Thurman moved the following amendment which was adopted:

Amendment 5—On page 8, lines 14, 24, 28 and 30, and on page 9, lines 2, 3, 4, 5, 9, 10, 11, 15 and 16, strike "special allowance"

AMENDMENTS TO HOUSE BILLS

CS for HB 1039

Senator Malchon moved the following amendment:

Amendment 1—Strike everything after the enacting clause and insert:

Section 1. Subsection (1) of section 401.35, Florida Statutes, is amended to read:

401.35 Rules.—The department shall adopt rules necessary to carry out the purposes of this act.

(1) The rules shall provide at least minimum standards governing:

(a) Sanitation, safety, and maintenance of basic life support and advanced life support vehicles.

(b) Emergency medical technician, paramedic, and driver training and qualifications.

(c) Ground ambulance and vehicle equipment and supplies at least as comprehensive as those published in the most current edition of the American College of Surgeons, Committee on Trauma, list of essential equipment for ambulances, as interpreted by rules of the department.

(d) Ground ambulance or vehicle design and construction at least equal to those most currently recommended by the United States General Services Administration and interpreted by rules of the department.

(e) Staffing of basic life support and advanced life support vehicles.

(f) Two-way communications for basic life support services and advanced life support services.

(g) Advanced life support services equipment.

(h) Programs of training for emergency medical technicians and paramedics.

(i) Vehicles, equipment, communications, and staffing for air ambulance services.

(j) Ambulance driver qualifications, training, and experience.

(k) Optional use of telemetry by licensees.

(l) Emergency medical services personnel responding to requests for withholding or withdrawing of life-prolonging procedures as defined in s. 765.03 and the documentation and reporting of such requests.

Section 2. Section 745.40, Florida Statutes, is created to read:

745.40 Health Care Surrogate Act of Florida; short title.—Sections 745.40-745.53 may be cited as the "Health Care Surrogate Act of Florida."

Section 3. Section 745.41, Florida Statutes, 1990 Supplement, is amended to read:

745.41 Definitions.—As used in *ss. 745.40-745.53* ~~this act~~, the term:

(1) "Adult" means a person 18 years of age or older.

(2) "Designation" means a written statement or written appointment of a competent adult who is to serve as a health care surrogate and is authorized to make health care decisions on behalf of the principal.

(3)~~(1)~~ "Health care decision" means informed consent, refusal of consent, or withdrawal of consent to health care, and includes the decision to apply for public benefits to defray the cost of health care.

(4)~~(2)~~ "Health care facility" means a hospital, nursing home, or hospice licensed in this state.

(5)~~(3)~~ "Health care provider" means a person licensed, certified, or otherwise authorized or permitted by law to administer health care in the ordinary course of business or practice of a profession.

(6) "Health care surrogate" means a competent adult designated by a principal, or by a facility pursuant to s. 745.44, to make health care decisions for the principal and provide informed consent on behalf of the principal when the principal is incapable of making health care decisions for himself.

(7)~~(4)~~ "Incapacity to consent" means the patient's judgment is so affected by a physical or mental condition that he lacks the ability to communicate a willful and knowing health care decision either physically or verbally.

(8)~~(5)~~ "Informed consent" means consent voluntarily given by a person, after sufficient explanation and disclosure of the subject matter involved to enable him to have a general understanding of the procedure and the medically acceptable alternative procedures and to make a knowing health care decision without duress or coercion.

(9)~~(6)~~ "Physician" means an individual licensed pursuant to chapter 458 or chapter 459.

(10) "Principal" means a competent adult who appoints a health care surrogate.

Section 4. Section 745.42, Florida Statutes, 1990 Supplement, is amended to read:

745.42 Designation of a health care surrogate.—

(1) Any competent adult may designate a ~~person to serve as a~~ health care surrogate *and an alternate* ~~to make health care decisions for him and to provide informed consent if he is incapable of making health care decisions or providing informed consent~~. *The alternate may assume his duties as health care surrogate for the principal in accordance with s. 745.44(1) if the original health care surrogate is unwilling or unable to perform his duties as authorized under this chapter. The alternate shall only assume his duties as surrogate once the original surrogate's authority has been revoked, voluntarily terminated by the original surrogate himself, otherwise terminated, or upon the death of the original surrogate.* A person designated a health care surrogate shall be notified of such designation and shall indicate his consent *and acknowledgment* by providing *the principal* a signed statement accepting the designation.

(2) The designation *may state conditions or limitations, if any, that the health care surrogate must adhere to in performing his duties and* must be in writing and signed by the person in the presence of two attesting witnesses, one of whom must not be his spouse, a blood relative, an heir to his estate, or responsible for paying his health care costs.

(3) A health care facility must *inquire* ~~ascertain~~, at the time a patient is admitted, if he has designated a health care surrogate *under ss. 745.40-745.53 or a health care decisionmaker under s. 709.08 or chapter 765. Appropriate information about any such identified person shall be entered* ~~and shall enter the name of any surrogate~~ in the patient's record.

(4) If a health care surrogate dies or becomes incapable of acting, his powers cease ~~and the health care facility must seek a designation~~.

(5) An individual may not serve as a health care surrogate if he is:

(a) The treating health care provider, or an employee or relative of the treating health care provider, *except that an employee who is a relative of the patient may serve as a health care surrogate unless there is reason to believe the patient would object.*

(b) The operator or an employee of the health care facility in which the patient resides or a relative of such operator or employee, *except that an employee who is a relative of the patient may serve as a health care surrogate unless there is reason to believe the patient would object.*

(c) A guardian of the property of the person, but not the guardian of the person.

Section 5. Section 745.44, Florida Statutes, 1990 Supplement, is amended to read:

745.44 Determination of capacity to consent; appointment of health care surrogate.—

(1) If a patient's capacity to make health care decisions for himself or provide informed consent is in question, the attending physician shall evaluate the patient's capacity. If the attending physician concludes that the patient lacks such capacity, the health care facility shall have another physician~~, not employed by it or associated with the attending physician,~~ evaluate the patient's capacity. If the second physician agrees that the patient lacks the capacity to make health care decisions or provide informed consent, the health care facility shall enter both physicians' evaluations in the patient's clinical record and, if the patient has designated a health care surrogate, shall notify such surrogate in writing that he is to assume his duties.

(2)(a) If the patient has not designated a health care surrogate or if the designated health care surrogate is unable or unwilling to act, *and the patient has not designated an alternate,* the health care facility may *request* ~~obtain~~ a person who is *reasonably available,* willing, *and competent to act. A person who is requested to act as a health care surrogate under this subsection may not be* ~~and who is not~~ employed by, *unless the employee is a relative of the patient,* or otherwise associated with the health care facility. *The health care facility must select a health care surrogate from persons listed* ~~to act as the health care surrogate~~ in the following order of *priority unless, with the exception of a judicially appointed guardian, there is reason to believe the patient would object to a particular individual making decisions for him* ~~precedence~~:

1. A judicially appointed guardian with authority to make health care decisions for the ward, if one has been appointed.

2. The patient's spouse.

3. An adult child of the patient *or, if the patient has more than one adult child, a majority of the adult children who are reasonably available for consultation.*

4. *A* ~~The~~ *parent* ~~father or mother~~ of the patient.

5. Any living relative who can be reasonably located.

6. A close personal friend.

A person assuming duties as a surrogate under this paragraph must agree to make decisions on the patient's behalf, applying the doctrine of substituted judgment based on personal knowledge about the patient or in compliance with written guidelines the patient has provided so long as such guidelines are in accord with this chapter.

(b) If a health care surrogate cannot be found from persons listed in paragraph (a), the health care facility may petition a court to appoint a guardian.

Section 6. Section 745.45, Florida Statutes, 1990 Supplement, is amended to read:

745.45 Responsibility of the health care surrogate.—

(1) The health care surrogate shall:

(a) Unless the designation provides otherwise, have final authority to act for the patient and to make health care decisions for the patient in matters regarding the patient's health care during the patient's incapacity.

(b) Expeditiously consult with appropriate health care providers to provide informed consent ~~in the best interest of the patient~~ and make health care decisions for the patient *applying the doctrine of substituted judgment* ~~which he believes the patient would have made under the circumstances if the patient were capable of making such decisions~~.

(c) Give any consent in writing using the appropriate consent forms.

(d) Have access to the appropriate clinical records of the patient and have authority to authorize the release of information and clinical records to appropriate persons to ensure the continuity of the patient's health care.

(e) Apply for public benefits, such as Medicare and Medicaid, for the patient and have access to information regarding the patient's income and assets to the extent required to make application. A health care provider may not, however, make such application a condition of continued care if the patient~~, if capable,~~ would have refused to apply.

(2) The health care surrogate may authorize the transfer and admission of the *principal* ~~patient~~ to or from a health care facility.

(3) If, after the *principal appoints* ~~appointment of~~ a health care surrogate, a court appoints a guardian of the *principal's* ~~patient's~~ estate or other fiduciary charged with the management of the *principal's* ~~patient's~~ property, the health care surrogate shall continue to make health care decisions, unless the court removes such power. The health care surrogate may report the *principal's* ~~patient's~~ health care status to the guardian.

Section 7. Subsections (5) and (7) of section 745.46, Florida Statutes, 1990 Supplement, are amended to read:

745.46 Restrictions on providing consent.—A health care surrogate may not provide consent for:

(5) Experimental treatments or therapies, except as *approved* ~~recommended~~ by federally approved institutional review boards in accordance with 45 C.F.R., part 46.

(7) Withholding or withdrawing life-prolonging procedures, unless the *principal:*

(a) Expressly delegates such authority to a health care surrogate in a designation created under ss. 745.40-745.53; or

(b) Executes a declaration as provided in s. 765.04 and, other than the health care surrogate, no person is authorized by the declaration to make health care decisions for the principal ~~patient has made a written declaration authorizing the health care surrogate to make such decisions for him pursuant to ss. 765.01-765.15~~.

Section 8. Subsection (1) of section 745.47, Florida Statutes, 1990 Supplement, is amended, and subsection (3) is added to that section, to read:

745.47 Independent review of the health care surrogate's decisions.—

(1) The patient, a health care professional, the patient's family, the health care surrogate, or any other interested party may petition a court of competent jurisdiction to review the health care surrogate's decisions or right to act if that person believes:

(a) The health care surrogate's decision is not in accord with the patient's known desires *or is contrary to the doctrine of substituted judgment*;

(b) A health care surrogate other than the individual named in the designation should be appointed; or

(c) The patient is competent to make health care decisions *for himself* ~~independently~~.

(3) A petition under this section may request, and a court may order, that the decision of a validly appointed health care surrogate must be honored.

Section 9. Section 745.48, Florida Statutes, 1990 Supplement, is amended to read:

745.48 Revocation.—

(1) Unless it expressly provides otherwise, *a later executed* ~~the~~ designation ~~of a health care surrogate~~ revokes any prior designation ~~of a health care surrogate~~.

(2) During a patient's stay in a health care facility, the attending physician and the health care surrogate shall review the patient's capacity to consent every 30 days or at any time requested by the patient and shall document such review in the patient's clinical record. If the patient requests the revocation of his designation of a health care surrogate, the attending physician shall evaluate the patient's capacity, and the health care facility shall have another physician ~~not employed by it or associated with the attending physician~~ evaluate the patient's capacity. When both physicians agree that the patient has regained the capacity to make health care decisions or provide informed consent, the *service* ~~appointment~~ of the health care surrogate *ceases and the health care surrogate shall continue in status as before his service was activated unless the principal revokes the designation in which the health care surrogate was appointed* ~~is revoked~~, and the patient shall assume responsibility for his health care decisions.

(3) Unless the designation of a health care surrogate expressly provides otherwise, the dissolution or annulment of the marriage of the *principal* ~~patient~~ revokes a designation of the *principal's* ~~patient's~~ spouse as his *health care* surrogate.

Section 10. Subsection (2) of section 745.50, Florida Statutes, 1990 Supplement, is amended to read:

745.50 Responsibility of health care providers.—

(2) A health care provider or health care facility may not require an individual to execute a designation ~~of health care surrogate~~ as a condition of treatment or admission to a health care facility.

Section 11. Section 745.51, Florida Statutes, 1990 Supplement, is amended to read:

745.51 Liability.—

(1) A health care facility, physician or other professional, or hospital employee is not liable for a decision of a health care surrogate.

(2) A health care surrogate is not liable civilly or criminally for acting as a reasonably prudent person in accordance with instruction in a *designation* ~~health care surrogate document~~ or for making health care decisions and giving authorizations which the *health care* surrogate reasonably believes the *principal* ~~patient~~ would have made if capable under the existing circumstances.

Section 12. Section 745.53, Florida Statutes, is created to read:

745.53 Preservation of existing rights.—Sections 745.40-745.53 are cumulative to the existing law regarding an individual's right to consent, or refuse to consent, to medical treatment and do not impair any existing rights or responsibilities which a health care provider, a health care facility, a patient, including a minor or incompetent adult, or a patient's family may have in regard to health care decisions under the constitution, common law, or state statutes.

Section 13. Section 765.01, Florida Statutes, is amended to read:

765.01 Life-Prolonging Procedure Act of Florida; short title.—Sections *765.01-765.17* ~~765.01-765.15~~ may be cited as the "Life-Prolonging Procedure Act of Florida."

Section 14. Section 765.02, Florida Statutes, is amended to read:

765.02 Right to make declaration instructing physician concerning life-prolonging procedures; policy statement.—The Legislature finds that every competent adult has the fundamental right to *self-determination regarding* ~~control the~~ decisions relating to his own medical care, including the decision to have provided, withheld, or withdrawn the medical or surgical means or procedures calculated to prolong his life. This right is subject to certain interests of society, such as the protection of human life and the preservation of ethical standards in the medical profession. The Legislature further finds that the artificial prolongation of life for a person with a terminal condition may secure for him only a precarious and burdensome existence, while providing nothing medically necessary or beneficial to the patient. In order that the rights and intentions of *an adult* ~~a person~~ with such a condition may be respected even after he is no longer able to participate actively in decisions concerning himself, and to encourage communication among such *person* ~~patient~~, his family, and his physician, the Legislature declares that the laws of this state recognize the right of a competent adult to make an oral or written declaration instructing his physician to provide, withhold, or withdraw life-prolonging procedures, or to designate another to make the treatment decision for him~~, in the event that such person should be diagnosed as suffering from a terminal condition~~.

Section 15. Section 765.03, Florida Statutes, 1990 Supplement, is amended to read:

765.03 Definitions.—As used in ss. *765.01-765.17* ~~765.01-765.15~~, the term:

(1) "Adult" means a person 18 years of age or older.

(2)~~(1)~~ "Attending physician" means the primary physician who has responsibility for the treatment and care of the patient.

(3)~~(2)~~ "Declaration" means:

~~(a)~~ a witnessed document in writing, voluntarily executed by the declarant in accordance with the requirements of s. 765.04.~~; or~~

~~(b) A witnessed oral statement made in accordance with the provisions of s. 765.04 by the declarant subsequent to the time he is diagnosed as suffering from a terminal condition.~~

(4)~~(3)~~ "Life-prolonging procedure" means any medical procedure, treatment, or intervention which:

(a) *Uses* ~~Utilizes~~ mechanical or other artificial means to sustain, restore, or supplant a spontaneous vital function; and

(b) When applied to a patient in a terminal condition, serves only to prolong the process of dying.

The term "life-prolonging procedure" does not include ~~the provision of sustenance or~~ the administration of medication or performance of any medical procedure deemed necessary to provide comfort care or to alleviate pain~~; provided, however, that sustenance can be included as a life-prolonging procedure in accordance with the provisions of s. 765.075~~.

(5) "Persistent vegetative state" means a permanent and irreversible condition in which, within a reasonable degree of medical certainty, there is the absence of voluntary action or cognitive behavior of any kind and there is the inability to communicate or interact purposefully with the environment.

(6)~~(4)~~ "Physician" means a person licensed *under chapter 458 or chapter 459* to practice medicine in the state.

(7) "Substitute decisionmaker" means any person lawfully making a decision regarding life-prolonging procedures for another.

~~(5) "Qualified patient" means a patient who has made a declaration in accordance with ss. 765.01-765.15 and who has been diagnosed and certified in writing by the attending physician, and by one other physician who has examined the patient, to be afflicted with a terminal condition.~~

(8)~~(6)~~ "Terminal condition" means a condition caused by injury, disease, or illness from which, to a reasonable degree of medical certainty, there can be no recovery and which *will result in the patient's death, and the term includes a persistent vegetative state* ~~makes death imminent~~.

Section 16. Section 765.04, Florida Statutes, is amended to read:

765.04 Procedure for making a declaration; notice to physician*; standard of proof applicable to oral conditions or limitations*.—

(1) Any competent adult may, at any time, make a written declaration directing the withholding or withdrawal of life-prolonging procedures *if the* ~~in the event such~~ person *has* ~~should have~~ a terminal condition. A written declaration must be signed by the declarant in the presence of two subscribing witnesses, one of whom is neither a spouse nor a blood relative of the declarant. If the declarant is physically unable to sign the written declaration, ~~his declaration may be given orally, in which event~~ one of the witnesses must subscribe the declarant's signature in the declarant's presence and at the declarant's direction.

(2) It is the responsibility of the declarant to provide for notification to his attending physician that the declaration has been made. *If* ~~In the event~~ the declarant is comatose, incompetent, or otherwise mentally or physically *incapacitated at the time the declaration could take effect* ~~incapable~~, any other person may notify the physician of the existence of the declaration. An attending physician who is so notified shall promptly make the declaration or a copy of the declaration~~, if the declaration is written,~~ a part of the declarant's medical records. If the declaration is oral, the physician shall likewise promptly make the fact of such declaration a part of the patient's medical record.

(3) If challenged, the substitute decisionmaker must be able to support by clear and convincing evidence that any limitations or conditions expressed orally have been satisfied.

Section 17. Section 765.05, Florida Statutes, 1990 Supplement, is amended to read:

765.05 Suggested form of written declaration.—

(1) A declaration executed pursuant to s. 765.04 may, but need not, be in the following form:

Declaration

Declaration made this . . . . day of . . . . , 19. . . . . I, ... , willfully and voluntarily make known my desire that my dying not be artificially prolonged under the circumstances set forth below, and I do hereby declare:

If at any time I should have a terminal condition and *am unable to make medical decisions on my behalf because I am physically and mentally incapacitated and* if my attending physician *and another physician have* ~~has~~ determined that there can be no recovery from such condition ~~and that my death is imminent~~, I direct that life-prolonging procedures be withheld or withdrawn when the application of such procedures would serve only to prolong artificially the process of dying.~~, and that~~ I *direct that I* be permitted to die naturally with only the administration of medication or the performance of any medical procedure deemed necessary to provide me with comfort care or to alleviate pain. I do ( ) I do not ( ) desire that nutrition and hydration (food and water) be withheld or withdrawn when the application of such procedures would serve only to prolong artificially the process of dying.

~~In the absence of my ability to give directions regarding the use of such life-prolonging procedures,~~ It is my intention that this declaration be honored by my family and physician as the final expression of my legal right to refuse medical or surgical treatment and to accept the consequences for such refusal.

If I have been diagnosed as pregnant and that diagnosis is known to my physician, this declaration shall have no force or effect during the course of my pregnancy.

I understand the full import of this declaration, and I am emotionally and mentally competent to make this declaration.

Additional instructions:

.....

.....

.....

. . . (Signed) . . .

The declarant is known to me, and I believe him or her to be of sound mind.

. . . Witness . . .
. . . Witness . . .

(2) A declaration executed pursuant to s. 765.04 may include *additional* ~~other~~ specific directions, including, but not limited to, a designation of *a substitute decisionmaker* ~~another person~~ to make ~~the~~ treatment decisions *regarding life-prolonging procedures. If* ~~for the declarant should he be diagnosed as suffering from a terminal condition and comatose, incompetent, or otherwise mentally or physically incapable of communication. Should~~ any ~~other~~ specific direction *is* ~~be~~ held to be invalid, such invalidity will not affect *the validity of other directions in* the declaration.

Section 18. Subsection (1) of section 765.07, Florida Statutes, is amended to read:

765.07 Procedure in absence of declaration; no presumption.—

(1) Life-prolonging procedures may be withheld or withdrawn from an adult patient with a terminal condition *as determined under s. 765.09(1), if he* ~~who is comatose, incompetent, or otherwise physically or mentally incapable of communication and~~ has not made a declaration ~~in accordance with s. 765.04~~, *and* if there are a consultation and a written agreement for the withholding or withdrawal of life-prolonging procedures between the attending physician and *an individual who agrees to serve as a substitute decisionmaker as provided in this section. A health care provider must request* any of the following individuals, who shall be guided by the express or implied intentions of the patient, *to serve as a substitute decisionmaker* in the following order of priority *if there is no reason to believe that the patient would object to a particular person making decisions for him and* if no individual in a prior class is reasonably available, willing, and competent to act:

(a) A health care surrogate as defined in s. 745.41.

(b)~~(a)~~ The judicially appointed guardian of the person of the patient if such guardian has been appointed. This paragraph shall not be construed to require such appointment before a treatment decision can be made under this section.

~~(b) The person or persons designated by the patient in writing to make the treatment decision for him should he be diagnosed as suffering from a terminal condition.~~

(c) The patient's spouse.

(d) An adult child of the patient or, if the patient has more than one adult child, a majority of the adult children who are reasonably available for consultation.

(e) *A parent* ~~The parents~~ of the patient.

(f) *Any* ~~The nearest~~ living relative *who can be reasonably located* ~~of the patient~~.

If challenged, the substitute decisionmaker must be able to support by clear and convincing evidence that the decision he makes would have been the one the patient would have chosen if the patient had been competent.

Section 19. Section 765.09, Florida Statutes, is amended to read:

765.09 *Determination of patient condition; notice of health care facility and physician policy;* transfer of a qualified patient.—

(1) The attending physician and one consulting physician must separately examine the patient and determine whether the patient has a terminal condition. The determination from each examination must be documented in the patient's medical records.

(2) Health care facilities and physicians are encouraged to provide their patients, at the earliest point in the patient's treatment, a written statement of their policies regarding the withholding or withdrawing of life-prolonging procedures. The policy statements should be worded in plain language so that a person of average intelligence can understand the meaning to an extent necessary to form a decision of whether to continue seeking care from the health care facility or the physician. Such policy statements should state whether the patient's requests regarding the withholding or withdrawing of life-prolonging procedures will be honored and should state any conditions or limitations applicable to any life-prolonging procedure or treatment that may be provided by the health care facility or physician.

(3) An attending physician who refuses to comply with the declaration of a qualified patient, or the treatment decision of a person designated to make the decision by the declarant in his declaration or pursuant to s. 765.07, shall make a reasonable effort to transfer the patient to another *health care facility or* physician. *This chapter does not require any provider of medical care to commit any act that is against his moral or ethical beliefs. If a health care provider or health care facility cannot carry out the wishes of the declarant in accordance with this chapter, the provider or the facility shall make reasonable efforts to transfer the declarant to another health care provider or health care facility. If efforts to provide for transfer fail, the health care provider shall carry out the wishes of the declarant. All expenses directly relating to such transfer shall be borne by the health care provider or health care facility whose refusal to comply with the declarant's wishes necessitates the transfer.*

Section 20. Section 765.10, Florida Statutes, is amended to read:

765.10 Immunity from liability; weight of proof; presumption.—

(1) A health care facility, physician, or other person who acts under the direction of a physician is not subject to criminal prosecution or civil liability, and will not be deemed to have engaged in unprofessional conduct, as a result of the withholding or withdrawal of life-prolonging procedures from a patient *diagnosed* with a terminal condition in accordance with *ss. 765.01-765.17* ~~ss. 765.01-765.15~~. A person who authorizes the withholding or withdrawal of life-prolonging procedures from a patient *diagnosed* with a terminal condition in accordance with a qualified patient's declaration or as provided in s. 765.07 is not subject to criminal prosecution or civil liability for such action.

(2) The provisions of this section shall apply unless it is shown by a preponderance of the evidence that the person authorizing or effectuating the withholding or withdrawal of life-prolonging procedures did not, in good faith, comply with the provisions of *ss. 765.01-765.17* ~~ss. 765.01-765.15~~. A declaration made in accordance with *ss. 765.01-765.17* ~~ss. 765.01-765.15~~ shall be presumed to have been made voluntarily.

Section 21. Section 765.11, Florida Statutes, is amended to read:

765.11 Mercy killing or euthanasia not authorized; suicide distinguished.—

(1) Nothing in *ss. 765.01-765.17* ~~ss. 765.01-765.15~~ shall be construed to condone, authorize, or approve mercy killing or euthanasia, or to permit any affirmative or deliberate act or omission to end life other than to permit the natural process of dying.

(2) The withholding or withdrawal of life-prolonging procedures from a patient in accordance with the provisions of *ss. 765.01-765.17* ~~ss. 765.01-765.15~~ does not, for any purpose, constitute a suicide.

Section 22. Section 765.12, Florida Statutes, is amended to read:

765.12 Effect of declaration with respect to insurance.—The making of a declaration pursuant to *ss. 765.01-765.17* ~~ss. 765.01-765.15~~ shall not affect the sale, procurement, or issuance of any policy of life insurance, nor shall such making of a declaration be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance will be

legally impaired or invalidated by the withholding or withdrawal of life-prolonging procedures from an insured patient in accordance with the provisions of *ss. 765.01-765.17* ~~ss. 765.01-765.15~~, notwithstanding any term of the policy to the contrary. A person shall not be required to make a declaration as a condition for being insured for, or receiving, health care services.

Section 23. Section 765.14, Florida Statutes, is amended to read:

765.14 Existing declarations; how treated.—The declaration of any patient made prior to October 1, 1984, shall be given effect as provided in *ss. 765.01-765.17* ~~ss. 765.01-765.15~~.

Section 24. Section 765.15, Florida Statutes, is amended to read:

765.15 Preservation of existing rights.—The provisions of *ss. 765.01-765.17* ~~ss. 765.01-765.15~~ are cumulative to the existing law regarding an individual's right to consent, or refuse to consent, to medical treatment and do not impair any existing rights or responsibilities which a health care provider, a patient, including a minor or incompetent patient, or a patient's family may have in regard to the withholding or withdrawal of life-prolonging medical procedures under the common law or statutes of the state.

Section 25. Section 745.49, Florida Statutes, as created by section 20 of chapter 90-232, Laws of Florida, is repealed.

Section 26. Subsection (2) of section 765.07, Florida Statutes, is repealed.

Section 27. Section 765.075, Florida Statutes, as created by section 3 of chapter 90-223, Laws of Florida, is repealed.

Section 28. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 29. This act shall take effect July 1, 1991.

Senators Dudley, Johnson and Langley offered the following amendment to **Amendment 1** which was moved by Senator Dudley:

Amendment 1A—On page 19, lines 15-31, and on page 20, lines 1 and 2, strike all of said lines and insert:

(3) An attending physician who refuses to comply with the declaration of a qualified patient, or the treatment decision of a person designated to make the decision by the declarant in his declaration or pursuant to s. 765.07, shall make a reasonable effort to transfer the patient to another *health care facility or* physician. *A health care surrogate appointed under chapter 745 may transfer the patient as provided in s. 745.45(2). A health care surrogate or any other health care designee may transfer as necessary to comply with the patient's expressed instructions regarding withholding or withdrawing of life-prolonging procedures.*

Senator Dudley moved the following substitute amendment for **Amendment 1A** which was adopted:

Amendment 1B—On page 19, line 27, following "*If*" insert: *all reasonable*

Amendment 1 as amended was adopted.

Senator Malchon moved the following amendment which was adopted:

Amendment 2—In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to health care; amending s. 401.35, F.S.; requiring the Department of Health and Rehabilitative Services to adopt rules to establish minimum standards for emergency medical services personnel to respond to requests for withholding or withdrawing life-prolonging procedures; creating s. 745.40, F.S.; designating ss. 745.40-745.53, F.S., the Health Care Surrogate Act of Florida; amending s. 745.41, F.S.; defining terms for purposes of ss. 745.40-745.53, F.S.; amending s. 745.42, F.S.; revising provisions relating to the designation of a health care surrogate; authorizing the designation of certain employees of the treating health care provider or health care facility as a health care surrogate, if the employee is related to the principal; amending s. 745.44, F.S.; revising provisions relating to persons who may serve as a health care surrogate of a patient who has not designated a surrogate and who does not have the capacity to make medical decisions for himself; amending s. 745.45, F.S.; clarifying responsibilities of a health care surrogate; amending s. 745.46, F.S.; clarifying the type of experimental treatments or therapies a health care surrogate may consent to; authorizing a health care surrogate to consent to withholding or withdrawing life-prolonging procedures from the principal, if expressly authorized to do so by the principal; amending s. 745.47, F.S.; clarifying a condition under which a surrogate's decision may be reviewed by a court; authorizing a court order to have a surrogate's decision honored; amending s. 745.48, F.S.; revising patient evaluation requirements; providing that the designation of a health care surrogate is not revoked if the principal regains the capacity to make health care decisions or provide informed consent; amending s. 745.50, F.S.; revising a provision that prohibits health care providers and facilities to require such a designation; amending s. 745.51, F.S.; revising a provision that restricts the liability of a health care surrogate; creating s. 745.53, F.S.; providing for the preservation of existing legal rights; amending s. 765.01, F.S.; clarifying a short title; amending s. 765.02, F.S.; specifying legislative intent to respect the decision of a person to forego life-prolonging medical procedures if he enters a persistent vegetative state; amending s. 765.03, F.S.; defining terms for purposes of ss. 765.01-765.17, F.S., relating to life-prolonging procedures; amending s. 765.04, F.S.; deleting a reference to oral declarations; providing a standard of proof for oral conditions or limitations placed on a declaration; amending s. 765.05, F.S.; specifying a suggested written form to make such a direction; amending s. 765.07, F.S.; revising the procedure for designating a person to decide whether to withdraw or withhold life-prolonging procedures from a terminally ill adult; amending s. 765.09, F.S.; requiring a determination that a person is terminally ill before a decision may be made to withdraw or withhold life-prolonging procedures; providing for voluntary policy statements by health care facilities and physicians describing their policies on life-prolonging procedures; providing that ch. 765, F.S., does not require health care providers to act against moral or ethical beliefs; requiring the transfer of a patient by a health care provider under specified circumstances; amending ss. 765.10, 765.11, 765.12, 765.14, 765.15, F.S.; conforming cross-references; repealing s. 745.49, F.S., relating to the period of time a designation is valid; repealing s. 765.07(2), F.S., relating to witnesses to treatment consultations; repealing s. 765.075, F.S., relating to withdrawing or withholding of food and water; providing for severability; providing an effective date.

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Senator Crenshaw moved the following amendments which were adopted:

Amendment 1—On page 1, strike all of lines 15-29 and insert:

Section 1. Subsection (8) of section 24.120, Florida Statutes, is amended to read:

24.120 Financial matters; Administrative Trust Fund; interagency cooperation.—

Amendment 2—In title, on page 1, strike all of lines 3-6 and insert: s. 24.120, F.S.; providing that certain

HB 2069

The Committee on Personnel, Retirement and Collective Bargaining recommended the following amendments which were moved by Senator Souto and adopted:

Amendment 1—On page 4, between lines 3 and 4, insert:

Section 2. Subsection (5) of section 121.031, Florida Statutes, 1990 Supplement, is amended to read:

121.031 Administration of system; appropriation; oaths; actuarial studies; public records.—

(5) The names and addresses of retirees are confidential and exempt from the provisions of s. 119.07(1) to the extent that no state or local governmental agency may provide the names or addresses of such persons in aggregate, compiled, or list form to any person except to a public agency engaged in official business. *However, a local governmental agency may provide the names and addresses of retirees from that agency to a bargaining agent as defined in s. 447.203 or to a retiree organization for official business use.* Lists of names or addresses of retirees may be exchanged by public agencies, but such lists shall not be provided to, or open for inspection by, the public. Any person may view or copy any individual's retirement records at the Division of Retirement, one record at

a time, or may obtain information by a separate written request for a named individual for which information is desired. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(Renumber subsequent sections.)

Amendment 2—In title, on page 1, line 7, before "amending" insert: amending s. 121.031, F.S.; providing that names and addresses of retirees may be given out under certain circumstances;

Amendment 3—On page 23, line 18, between the "(1)" and the "(3)" insert: (2)

Amendment 4—On page 24, line 5, insert:

(2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL PROGRAM.—

(a) Participation in the optional retirement program provided by this section shall be limited to persons who are otherwise eligible for membership in the Florida Retirement System; who are employed or appointed full time, that is, for no less than one academic year at 1.0 full-time equivalent; and who are employed in one of the following State University System positions:

1. Positions classified as instructional and research faculty which are exempt from the career service under the provisions of s. 110.205(2)(d).

2. Positions classified as administrative and professional which are exempt from the career service under the provisions of s. 110.205(2)(d), provided that only those positions that are included in the State University System Executive Service, or those which the division determines meet the following criteria, shall be eligible to participate: The duties and responsibilities of the position shall include either the formulation, interpretation, or implementation of academic policies, or the *performance of functions which are unique or specialized within higher education and which frequently involve the* ~~direct~~ support of the academic *mission* ~~program~~ of the university; and recruiting to fill vacancies in the position shall be conducted within the national or regional market. The employer shall submit an application, including a certification that the position meets the criteria for eligibility, to the division for each administrative and professional position not in the Executive Service for which it seeks eligibility for the optional retirement program.

3. The Chancellor and the university presidents.

(b) For purposes of this section, both the appointees and employees are referred to as "employees," and the "employer" of an appointee or employee is the individual institution within the State University System or the Board of Regents, whichever is appropriate with respect to the particular employee or appointee.

(c) For purposes of this section, the Division of Retirement of the Department of Administration is referred to as the "division."

(d) For purposes of this section, the authority granted to the Board of Regents may be exercised by the board or by the Chancellor of the State University System.

Senator Gardner moved the following amendments which were adopted:

Amendment 5—On page 11, line 31, insert:

Section 3. Paragraph (a) of subsection (3) of section 121.055, Florida Statutes, 1990 Supplement, is amended, and subsection (7) is added to that section, to read:

121.055 Senior Management Service Class.—There is hereby established a separate class of membership within the Florida Retirement System to be known as the "Senior Management Service Class," which shall become effective February 1, 1987.

(3)(a) The following table states the required retirement contribution rates for members of the Senior Management Service Class and their employers in terms of percentages of the members' gross compensation. Changes in the contribution rates are effective with the first salary paid on or after the beginning date of a change. Contributions shall be made for each pay period and shall be in addition to the contributions required for social security and the Retiree Health Insurance Subsidy Trust Fund.

Rates of Contribution

Rate Changes	Members	Employers
February 1, 1987, through December 31, 1988	0%	13.88%
January 1, 1989, through December 31, 1989	0%	14.95%
January 1, 1990, through December 31, 1990	0%	16.04%
January 1, 1991, through December 31, 1991	0%	18.39%
January 1, 1992, through December 31, 1992	0%	*20.95%* ~~19.48%~~
Effective January 1, 1993	0%	*22.02%* ~~20.55%~~

(7) On and after January 1, 1992, if the employment of a member of the Senior Management Class is terminated subsequent to the completion by the member of 20 years of creditable service, the monthly benefits payable to the member shall be calculated in accordance with s. 121.091(1), but based on average monthly compensation and creditable service as of the date of termination. The benefit so computed shall be reduced by five-twelfths of 1 percent for each complete month by which termination precedes the normal retirement date or the date on which the member would have attained 30 years of creditable service had his employment not been terminated and had he continued his employment, whichever computation provides a greater benefit.

(Renumber subsequent sections.)

Amendment 6—In title, on page 1, line 17, after the semicolon (;) insert: amending s. 121.055, F.S.; increasing the contribution rate required with respect to members of the Senior Management Service Class of the Florida Retirement System; providing for the calculation of the monthly benefit of a member of that class whose employment is terminated after the member has completed 20 years of creditable service;

Senators Grizzle and Gardner offered the following amendments which were moved by Senator Grizzle and adopted:

Amendment 7—On page 4, line 4, after "Subsections (3)" insert: , (5),

Amendment 8—On page 6, between lines 9 and 10, insert:

(5) UPGRADED SERVICE; PURCHASE OF ADDITIONAL CREDIT.—

(c) Notwithstanding any provision of this subsection to the contrary, an elected state officer *or former elected state officer* who purchases additional retirement credit in the Elected State and County Officers' Class pursuant to paragraph (a) during the period from January 1, 1991, to *December 31* ~~June 30~~, 1991, shall be required to pay one-half the contributions and interest due the Florida Retirement System Trust Fund, and an equal amount shall be paid by the employer. No contributions shall be paid by the employer on behalf of any elected state officer *or former elected state officer* who purchases such retirement credit after *December 31* ~~June 30~~, 1991.

Amendment 9—In title, on page 1, line 9, after the semicolon (;) insert: amending provisions relating to the purchase of additional retirement credit by elected state officers;

Senator Myers moved the following amendments which were adopted:

Amendment 10—On page 11, line 31, insert:

Section 4. Paragraph (b) of subsection (1) of section 121.055, Florida Statutes, 1990 Supplement, is amended to read:

121.055 Senior Management Service Class.—There is hereby established a separate class of membership within the Florida Retirement System to be known as the "Senior Management Service Class," which shall become effective February 1, 1987.

(1)

(b) Effective January 1, 1990, participation in the Senior Management Service Class shall be compulsory for the president of each community college, the manager of each participating city, ~~or~~ county, *or special district,* and all appointed district school superintendents. However, in lieu of participation in the Senior Management Service Class, such members may withdraw from the Florida Retirement System altogether and participate in a lifetime monthly annuity program which may be provided by the employing agency. The cost to the employer for such annuity shall equal the normal cost portion of the contributions required in the Senior Management Service Class. The employer providing such annuity shall contribute an additional amount to the Florida Retirement System Trust Fund equal to the unfunded actuarial accrued liability portion of the Senior Management Service Class contribution rate. The decision to participate in such local government annuity shall be irrevocable for as long as the employee holds a position eligible for the annuity. Any

service creditable under the Senior Management Service Class shall be retained after the member withdraws from the Florida Retirement System; however, additional service credit in the Senior Management Service Class shall not be earned after such withdrawal. Such members shall not be eligible to participate in the Senior Management Service Optional Annuity Program.

(Renumber subsequent sections.)

Amendment 11—In title, on page 1, line 17, after the semicolon (;) insert: amending s. 121.055, F.S.; providing for participation in the Senior Management Service Class by managers of participating special districts;

CS for HB 2229

Senator Forman moved the following amendment which failed:

Amendment 1—Strike everything after the enacting clause and insert:

Section 1. Paragraph (f) is added to subsection (24) of section 380.06, Florida Statutes, 1990 Supplement, to read:

380.06 Developments of regional impact.—

(24) STATUTORY EXEMPTIONS.—

(f) Any increase in the seating capacity of an existing sports facility having a permanent seating capacity of at least 41,000 spectators, or a one-time increase of no more than 3,500 parking spaces in a parking facility serving such a facility, is exempt from the provisions of this section, if such increase does not increase permanent seating capacity by more than a total of 10 percent in any 5-year period, and in no event exceeds a cumulative total of 20 percent, provided that the local government having jurisdiction includes in the development order or development permit approving such expansion a finding of fact that such expansion complies with and is consistent with the transportation, water, sewer, and stormwater drainage provisions of:

1. The local comprehensive plan and local land development regulations,

2. The appropriate comprehensive regional policy plan, and

3. The State Comprehensive Plan.

Any developer that wishes to rely upon this paragraph to avoid development of regional impact review shall provide a copy of the local government application for development permit to the department. Within 45 days of receipt of the application, the department shall inform the local government in writing whether the application complies with the provisions of this paragraph. The local government shall render the development order approving each such expansion to the department. The department may appeal said local government development order pursuant to s. 380.07 based solely upon failure to comply with this paragraph. Any aggrieved or adversely affected party who disputes the findings of fact required by subparagraph 3. may maintain an action for injunctive or other relief against the local government issuing the development order to prevent the construction of such expansion. If any sports facility expansion does undergo development of regional impact review, all previous expansions which were exempt because of the provisions of this paragraph shall be included in the development of regional impact review.

Section 2. This act shall take effect upon becoming a law.

ROLL CALLS ON SENATE BILLS

CS for SB 106

Yeas—34

Madam President	Diaz-Balart	Kirkpatrick	Souto
Beard	Dudley	Kiser	Thurman
Brown	Forman	Kurth	Walker
Bruner	Gardner	Langley	Weinstein
Casas	Girardeau	McKay	Weinstock
Crenshaw	Grant	Meek	Wexler
Crotty	Jenne	Myers	Yancey
Dantzler	Jennings	Plummer	
Davis	Johnson	Scott	

Nays—None

Vote after roll call:

Yea—Childers

SB 120

Yeas—33

Madam President	Diaz-Balart	Johnson	Scott
Beard	Dudley	Kirkpatrick	Souto
Brown	Forman	Kiser	Thurman
Bruner	Gardner	Kurth	Walker
Casas	Girardeau	Langley	Weinstein
Crenshaw	Grant	Malchon	Yancey
Crotty	Grizzle	Meek	
Dantzler	Jenne	Myers	
Davis	Jennings	Plummer	

Nays—None

Vote after roll call:

Yea—Childers, Thomas

CS for SB 130

Yeas—34

Madam President	Diaz-Balart	Johnson	Souto
Beard	Forman	Kiser	Thomas
Brown	Gardner	Kurth	Thurman
Bruner	Girardeau	Langley	Walker
Casas	Gordon	Malchon	Weinstein
Childers	Grant	McKay	Weinstock
Crenshaw	Grizzle	Meek	Yancey
Crotty	Jenne	Myers	
Davis	Jennings	Scott	

Nays—2

Dantzler	Dudley

Vote after roll call:

Yea—Kirkpatrick, Plummer, Wexler

SB 134

Yeas—39

Madam President	Diaz-Balart	Johnson	Scott
Beard	Dudley	Kirkpatrick	Souto
Brown	Forman	Kiser	Thomas
Bruner	Gardner	Kurth	Thurman
Casas	Girardeau	Langley	Walker
Childers	Gordon	Malchon	Weinstein
Crenshaw	Grant	McKay	Weinstock
Crotty	Grizzle	Meek	Wexler
Dantzler	Jenne	Myers	Yancey
Davis	Jennings	Plummer	

Nays—None

CS for SB 156

Yeas—28

Madam President	Diaz-Balart	Johnson	Souto
Beard	Dudley	Kirkpatrick	Thomas
Brown	Forman	Kurth	Thurman
Casas	Girardeau	Malchon	Walker
Childers	Gordon	McKay	Weinstein
Dantzler	Grant	Meek	Weinstock
Davis	Grizzle	Myers	Yancey

Nays—2

Langley	Plummer

Vote after roll call:

Nay—Wexler

Yea to Nay—Weinstein

SB 206

Yeas—29

Beard	Forman	Kurth	Walker
Brown	Girardeau	Malchon	Weinstein
Casas	Gordon	Meek	Weinstock
Childers	Grizzle	Myers	Wexler
Crenshaw	Jenne	Plummer	Yancey
Davis	Johnson	Souto	
Diaz-Balart	Kirkpatrick	Thomas	
Dudley	Kiser	Thurman	

Nays—6

Bruner	Dantzler	Langley
Crotty	Grant	McKay

Vote after roll call:

Nay—Jennings

Yea to Nay—Kiser

SB 238

Yeas—38

Madam President	Diaz-Balart	Kirkpatrick	Souto
Beard	Dudley	Kiser	Thomas
Brown	Forman	Kurth	Thurman
Bruner	Gardner	Langley	Walker
Casas	Girardeau	Malchon	Weinstein
Childers	Grant	McKay	Weinstock
Crenshaw	Grizzle	Meek	Wexler
Crotty	Jenne	Myers	Yancey
Dantzler	Jennings	Plummer	
Davis	Johnson	Scott	

Nays—None

SB 238—After Reconsideration

Yeas—36

Madam President	Davis	Johnson	Scott
Beard	Diaz-Balart	Kirkpatrick	Souto
Brown	Dudley	Kiser	Thomas
Bruner	Forman	Kurth	Thurman
Casas	Gardner	Langley	Walker
Childers	Girardeau	Malchon	Weinstein
Crenshaw	Grant	McKay	Weinstock
Crotty	Grizzle	Meek	Wexler
Dantzler	Jennings	Myers	Yancey

Nays—None

CS for SB 268

Yeas—35

Madam President	Diaz-Balart	Johnson	Souto
Beard	Dudley	Kirkpatrick	Thomas
Brown	Forman	Kurth	Thurman
Bruner	Girardeau	Langley	Walker
Casas	Gordon	Malchon	Weinstein
Childers	Grant	McKay	Weinstock
Crotty	Grizzle	Myers	Wexler
Dantzler	Jenne	Plummer	Yancey
Davis	Jennings	Scott	

Nays—None

Vote after roll call:

Yea—Gardner

CS for SB 410

Yeas—36

Beard	Diaz-Balart	Jennings	Plummer
Brown	Dudley	Johnson	Scott
Bruner	Forman	Kiser	Souto
Casas	Gardner	Kurth	Thomas
Childers	Girardeau	Langley	Thurman
Crenshaw	Gordon	Malchon	Walker
Crotty	Grant	McKay	Weinstein
Dantzler	Grizzle	Meek	Weinstock
Davis	Jenne	Myers	Wexler

Nays—None

CS for SB 410—After Reconsideration

Yeas—38

Madam President	Diaz-Balart	Kirkpatrick	Souto
Beard	Dudley	Kiser	Thomas
Brown	Forman	Kurth	Thurman
Bruner	Gardner	Langley	Walker
Casas	Girardeau	Malchon	Weinstein
Childers	Gordon	McKay	Weinstock
Crenshaw	Grant	Meek	Wexler
Crotty	Grizzle	Myers	Yancey
Dantzler	Jennings	Plummer	
Davis	Johnson	Scott	

Nays—None

SB 544

Yeas—37

Madam President	Diaz-Balart	Kiser	Thomas
Beard	Dudley	Kurth	Thurman
Brown	Forman	Langley	Walker
Bruner	Gardner	Malchon	Weinstein
Casas	Girardeau	McKay	Weinstock
Childers	Grant	Meek	Wexler
Crenshaw	Grizzle	Myers	Yancey
Crotty	Jennings	Plummer	
Dantzler	Johnson	Scott	
Davis	Kirkpatrick	Souto	

Nays—None

SB 942

Yeas—35

Madam President	Davis	Jennings	Myers
Beard	Diaz-Balart	Johnson	Scott
Brown	Dudley	Kirkpatrick	Souto
Bruner	Forman	Kiser	Thomas
Casas	Gardner	Kurth	Thurman
Childers	Girardeau	Langley	Weinstock
Crenshaw	Grant	Malchon	Wexler
Crotty	Grizzle	McKay	Yancey
Dantzler	Jenne	Meek	

Nays—None

CS for SB 1298

Yeas—36

Madam President	Diaz-Balart	Jennings	Plummer
Beard	Dudley	Johnson	Scott
Brown	Forman	Kiser	Souto
Bruner	Gardner	Kurth	Thomas
Casas	Girardeau	Langley	Thurman
Childers	Gordon	Malchon	Walker
Crotty	Grant	McKay	Weinstein
Dantzler	Grizzle	Meek	Weinstock
Davis	Jenne	Myers	Wexler

Nays—None

Vote after roll call:

Yea—Kirkpatrick

CS for SB 1662

Yeas—35

Madam President	Diaz-Balart	Johnson	Scott
Beard	Dudley	Kiser	Souto
Brown	Gardner	Kurth	Thurman
Bruner	Girardeau	Langley	Walker
Casas	Gordon	Malchon	Weinstein
Crenshaw	Grant	McKay	Weinstock
Crotty	Grizzle	Meek	Wexler
Dantzler	Jenne	Myers	Yancey
Davis	Jennings	Plummer	

Nays—None

Vote after roll call:

Yea—Childers, Kirkpatrick

SB 1708

Yeas—36

Madam President	Davis	Jennings	Myers
Beard	Diaz-Balart	Johnson	Plummer
Brown	Dudley	Kirkpatrick	Souto
Bruner	Forman	Kiser	Thomas
Casas	Gardner	Kurth	Thurman
Childers	Gordon	Langley	Walker
Crenshaw	Grant	Malchon	Weinstein
Crotty	Grizzle	McKay	Wexler
Dantzler	Jenne	Meek	Yancey

Nays—None

SB 1716

Yeas—34

Madam President	Dudley	Kirkpatrick	Thomas
Brown	Forman	Kiser	Thurman
Bruner	Gardner	Kurth	Walker
Casas	Girardeau	Langley	Weinstein
Childers	Gordon	McKay	Weinstock
Crenshaw	Grant	Meek	Wexler
Dantzler	Grizzle	Myers	Yancey
Davis	Jennings	Plummer	
Diaz-Balart	Johnson	Souto	

Nays—None

SB 1726

Yeas—35

Madam President	Diaz-Balart	Johnson	Plummer
Beard	Dudley	Kirkpatrick	Scott
Brown	Forman	Kiser	Thomas
Casas	Gardner	Kurth	Thurman
Childers	Girardeau	Langley	Walker
Crenshaw	Gordon	Malchon	Weinstein
Crotty	Grant	McKay	Weinstock
Dantzler	Grizzle	Meek	Wexler
Davis	Jenne	Myers	

Nays—None

Vote after roll call:

Yea—Bruner

CS for SB 1996

Yeas—34

Madam President	Dudley	Kiser	Thomas
Beard	Gardner	Kurth	Thurman
Brown	Girardeau	Langley	Walker
Bruner	Gordon	Malchon	Weinstein
Casas	Grant	McKay	Weinstock
Crotty	Grizzle	Meek	Wexler
Dantzler	Jennings	Myers	Yancey
Davis	Johnson	Plummer	
Diaz-Balart	Kirkpatrick	Souto	

Nays—None

Vote after roll call:

Yea—Childers

CS for SB 2058

Yeas—36

Madam President	Davis	Jenne	Meek
Beard	Diaz-Balart	Jennings	Myers
Brown	Dudley	Johnson	Plummer
Bruner	Forman	Kirkpatrick	Thomas
Casas	Gardner	Kiser	Thurman
Childers	Girardeau	Kurth	Walker
Crenshaw	Gordon	Langley	Weinstein
Crotty	Grant	Malchon	Weinstock
Dantzler	Grizzle	McKay	Yancey

Nays—1

Souto

Vote after roll call:

Yea—Scott

CS for SB 2126

Yeas—34

Madam President	Diaz-Balart	Johnson	Thomas
Beard	Dudley	Kurth	Thurman
Brown	Forman	Langley	Walker
Casas	Gardner	Malchon	Weinstein
Childers	Girardeau	McKay	Weinstock
Crenshaw	Grant	Meek	Wexler
Crotty	Grizzle	Myers	Yancey
Dantzler	Jenne	Scott	
Davis	Jennings	Souto	

Nays—None

Vote after roll call:

Yea—Bruner, Kirkpatrick

SB 2458

Yeas—38

Madam President	Diaz-Balart	Johnson	Souto
Beard	Dudley	Kirkpatrick	Thomas
Brown	Forman	Kiser	Thurman
Bruner	Gardner	Kurth	Walker
Casas	Girardeau	Langley	Weinstein
Childers	Gordon	Malchon	Weinstock
Crenshaw	Grant	Meek	Wexler
Crotty	Grizzle	Myers	Yancey
Dantzler	Jenne	Plummer	
Davis	Jennings	Scott	

Nays—None

SB 2460

Yeas—32

Madam President	Davis	Jenne	Plummer
Beard	Diaz-Balart	Jennings	Scott
Brown	Forman	Johnson	Souto
Bruner	Gardner	Kiser	Thomas
Casas	Girardeau	Kurth	Thurman
Childers	Gordon	Langley	Weinstock
Crotty	Grant	Malchon	Wexler
Dantzler	Grizzle	Myers	Yancey

Nays—None

Vote after roll call:

Yea—Kirkpatrick

ROLL CALLS ON HOUSE BILLS

HB 157

Yeas—35

Madam President	Diaz-Balart	Johnson	Scott
Beard	Dudley	Kiser	Souto
Brown	Forman	Kurth	Thomas
Casas	Girardeau	Langley	Thurman
Childers	Gordon	Malchon	Walker
Crenshaw	Grant	McKay	Weinstein
Crotty	Grizzle	Meek	Weinstock
Dantzler	Jenne	Myers	Wexler
Davis	Jennings	Plummer	

Nays—None

Vote after roll call:

Yea—Gardner, Kirkpatrick

CS for HB 625

Yeas—35

Madam President	Diaz-Balart	Johnson	Scott
Beard	Dudley	Kiser	Thomas
Brown	Forman	Kurth	Thurman
Bruner	Girardeau	Langley	Walker
Casas	Gordon	Malchon	Weinstein
Childers	Grant	McKay	Weinstock
Crotty	Grizzle	Meek	Wexler
Dantzler	Jenne	Myers	Yancey
Davis	Jennings	Plummer	

Nays—None

Vote after roll call:

Yea—Gardner, Kirkpatrick, Souto

CS for CS for CS for HB 827

Yeas—37

Madam President	Dudley	Kiser	Thomas
Beard	Forman	Kurth	Thurman
Brown	Gardner	Langley	Walker
Bruner	Girardeau	Malchon	Weinstein
Casas	Grant	McKay	Weinstock
Crenshaw	Grizzle	Meek	Wexler
Crotty	Jenne	Myers	Yancey
Dantzler	Jennings	Plummer	
Davis	Johnson	Scott	
Diaz-Balart	Kirkpatrick	Souto	

Nays—None

Vote after roll call:

Yea—Childers

CS for HB 891

Yeas—38

Madam President	Diaz-Balart	Johnson	Scott
Beard	Dudley	Kirkpatrick	Souto
Brown	Forman	Kiser	Thomas
Bruner	Gardner	Kurth	Thurman
Casas	Girardeau	Langley	Walker
Childers	Gordon	Malchon	Weinstein
Crenshaw	Grant	McKay	Weinstock
Crotty	Grizzle	Meek	Wexler
Dantzler	Jenne	Myers	
Davis	Jennings	Plummer	

Nays—None

CS for HB 1039

Yeas—35

Madam President	Diaz-Balart	Jennings	Souto
Beard	Dudley	Johnson	Thomas
Brown	Forman	Kirkpatrick	Thurman
Bruner	Gardner	Kiser	Walker
Casas	Girardeau	Kurth	Weinstein
Crenshaw	Gordon	Langley	Weinstock
Crotty	Grant	Malchon	Wexler
Dantzler	Grizzle	Meek	Yancey
Davis	Jenne	Myers	

Nays—None

Vote after roll call:

Yea—Childers

CS for HB 1191

Yeas—37

Madam President	Diaz-Balart	Johnson	Souto
Beard	Dudley	Kirkpatrick	Thurman
Brown	Forman	Kiser	Walker
Bruner	Gardner	Kurth	Weinstein
Casas	Girardeau	Langley	Weinstock
Childers	Gordon	Malchon	Wexler
Crenshaw	Grant	McKay	Yancey
Crotty	Grizzle	Meek	
Dantzler	Jenne	Myers	
Davis	Jennings	Plummer	

Nays—None

CS for HB 1339

Yeas—32

Madam President	Davis	Jenne	Scott
Beard	Diaz-Balart	Jennings	Souto
Brown	Dudley	Kirkpatrick	Thurman
Bruner	Forman	Kurth	Walker
Casas	Gardner	McKay	Weinstein
Crenshaw	Girardeau	Meek	Weinstock
Crotty	Grant	Myers	Wexler
Dantzler	Grizzle	Plummer	Yancey

Nays—None

Vote after roll call:

Yea—Childers

CS for HB 1587

Yeas—35

Madam President	Davis	Jenne	Meek
Beard	Diaz-Balart	Jennings	Myers
Brown	Dudley	Johnson	Souto
Bruner	Forman	Kirkpatrick	Thomas
Casas	Gardner	Kiser	Thurman
Childers	Girardeau	Kurth	Walker
Crenshaw	Gordon	Langley	Weinstein
Crotty	Grant	Malchon	Yancey
Dantzler	Grizzle	McKay	

Nays—None

CS for HB 1971

Yeas—37

Beard	Dantzler	Girardeau	Johnson
Brown	Davis	Gordon	Kirkpatrick
Bruner	Diaz-Balart	Grant	Kiser
Casas	Dudley	Grizzle	Kurth
Crenshaw	Forman	Jenne	Langley
Crotty	Gardner	Jennings	Malchon

McKay	Scott	Walker	Yancey
Meek	Souto	Weinstein	
Myers	Thomas	Weinstock	
Plummer	Thurman	Wexler	

Nays—None

Vote after roll call:

Yea—Childers

HB 2069

Yeas—33

Madam President	Forman	Kirkpatrick	Thomas
Brown	Gardner	Kiser	Thurman
Bruner	Girardeau	Kurth	Walker
Childers	Gordon	Langley	Weinstein
Crenshaw	Grant	McKay	Weinstock
Dantzler	Grizzle	Meek	Wexler
Davis	Jenne	Myers	
Diaz-Balart	Jennings	Plummer	
Dudley	Johnson	Souto	

Nays—None

CS for HB 2229—Amendment 1

Yeas—17

Madam President	Forman	Kirkpatrick	Weinstock
Beard	Girardeau	Kiser	Wexler
Casas	Grant	Kurth	
Davis	Grizzle	Malchon	
Diaz-Balart	Jenne	Weinstein	

Nays—18

Brown	Dantzler	Langley	Thurman
Bruner	Dudley	McKay	Walker
Childers	Gardner	Myers	Yancey
Crenshaw	Jennings	Plummer	
Crotty	Johnson	Thomas	

CS for HB 2229

Yeas—30

Madam President	Dantzler	Johnson	Thurman
Beard	Davis	Kirkpatrick	Walker
Brown	Dudley	Kiser	Weinstein
Bruner	Gardner	McKay	Weinstock
Casas	Girardeau	Myers	Wexler
Childers	Gordon	Plummer	Yancey
Crenshaw	Grant	Scott	
Crotty	Jennings	Thomas	

Nays—6

Diaz-Balart	Grizzle	Langley
Forman	Jenne	Malchon

Vote after roll call:

Nay—Souto

Yea to Nay—Kiser, Wexler

HB 2313

Yeas—37

Madam President	Diaz-Balart	Kiser	Thomas
Beard	Dudley	Kurth	Thurman
Brown	Forman	Langley	Walker
Bruner	Gardner	Malchon	Weinstein
Casas	Girardeau	McKay	Weinstock
Childers	Gordon	Meek	Wexler
Crenshaw	Grant	Myers	Yancey
Crotty	Grizzle	Plummer	
Dantzler	Jennings	Scott	
Davis	Johnson	Souto	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

ENROLLING REPORTS

CS for SB 104, Senate Bills 152, 358, CS for SB 438, CS for SB 458, CS for SB 554, CS for SB 602, Senate Bills 630, 738, 894, 1050, CS for SB 1282, SB 1380, CS for SB 1384, CS for SB 1492 and SB 1640 have been enrolled, signed by the required Constitutional Officers and presented to the Governor on April 23, 1991.

Joe Brown, Secretary

CORRECTION AND APPROVAL OF JOURNAL

The Journal of April 22 was corrected and approved.

RECESS

On motion by Senator Thomas, the Senate recessed at 12:06 p.m. to reconvene at 2:00 p.m., Wednesday, April 24.